UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/51/Add.1
24 July 1997

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1997

Addendum

THE NETHERLANDS

[15 May 1997]

GE.97-17502 (E)

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3. Cultural policy in the Netherlands

4. Criminal Code, Book II, Title XIV

5. Offences against public morals

* The documents listed are submitted in their English translation. They are available for consultation with the Centre for Human Rights.

Introduction

1. In pursuance of article 44, paragraph 1 (a), of the Convention on the Rights of the Child, which entered into force as regards the Kingdom of the Netherlands on 7 March 1995, the initial report of the Kingdom of the Netherlands is submitted in accordance with the general guidelines regarding the form and content of initial reports adopted by the Committee on 30 October 1991 (CRC/C/5). This report deals with the measures taken by the Netherlands giving effect to the rights recognized in the Convention and indicates the progress achieved in the enjoyment of those rights.

I. GENERAL MEASURES OF IMPLEMENTATION

A. Measures taken to harmonize Netherlands law and policy with the provisions of the Convention

2. Following the entry into force of the Convention in the Netherlands, there has been a trend in both legislation and policy towards compliance with the requirements of the Convention. An important example is the Act of 6 April 1995 (Stb. 240) regulating parental authority and access to minor children. The Act contains a description of the duty and the right (in that order) of parents to look after and raise their children. Parents who are married are automatically entitled to parental authority; those who have never been married to each other may obtain parental authority by registration in the Guardianship of Minors Register (Voogdijregister). After divorce, the parents may continue to have joint parental authority if they make a joint application to the court to this effect. Draft legislation, which will probably come into force on 1 January 1998, will reverse this principle. In future, joint parental authority will continue unless one of the parents requests its termination.

3. Mention may also be made of the amendment to the family supervision order measure (article 254 et seq. of the Civil Code) on 1 November 1995, under which a child of 12 years and over may apply to the court for a family supervisor to be replaced by another family supervisor. Instructions of a family supervisor concerning the care and upbringing of a child aged 12 and over may, at the request of the child, be cancelled by the court (owing to changed circumstances) or be held to have lapsed. Similarly, a care order may be terminated (or shortened) by the family supervision institution or by the juvenile court at the request of a child aged 12 or over owing to changed circumstances.

4. Another important development is the bill on joint parental authority and on joint custody, which is dealt with below. A revision of the law on affiliation will probably also take effect on 1 January 1998. The bill submitted in March 1996 dispenses with the terms legitimate, illegitimate and natural. These will in future no longer appear in the statute. The criterion that has replaced them is whether or not a child has a family law relationship with a parent. Another significant proposal is the introduction of the possibility of applying to the court for an affiliation order. Such an order means that a family law relationship between a child and its natural father can be established even if against the will of the natural father. An application may be made either by the mother or by the child.

5. Other important implementation measures will be discussed below when the individual articles are dealt with. In principle, no distinction is made in the case of implementation between civil and political rights on the one hand and economic, social and cultural rights on the other.

B. Measures taken or foreseen to make the principles and provisions of the Convention widely known to adults and children alike

6. The obligation to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike has been fulfilled in the Netherlands by the establishment and implementation of an information campaign entitled "Met praten kom je tot je recht" (By talking you can do yourself justice). The campaign is being conducted at two levels: first of all at national level by the use of TV and radio commercials, distribution of a brochure on the rights of the child through the government information outlets (i.e. post offices, libraries and town halls), advertisements in youth magazines and school diaries, a series with Dutch Education Television and free publicity in children's programmes.

7. At the second level, every effort is being made to ensure that the campaign reaches children by ensuring that they come into contact with it. This is being done through the assistance of local authorities, schools and intermediaries at local level. All Dutch municipalities have, for example, been sent free of charge an exercise book and campaign material. The exercise book contains suggestions and tips as to how the campaign materials (brochures, posters, advertisements, prints of logos and the theme line "Met praten kom je tot je recht") can be used at local level to initiate activities to inform children and people in contact with them of their rights and duties. A newsletter entitled "United Kids" was produced in 1995 and 1996 and sent to all Dutch municipalities. The newsletter drew attention to developments in the area of children's rights and to the relationship with municipal youth policy. Seven or eight issues of the newsletter have been published.

8. The editors of all school magazines in the Netherlands have also been sent information material and asked to cover the subject of children's rights. In addition, brochures and posters have been distributed at schools through the school boards. All regional and local radio stations in the Netherlands have received information material, including a tape recording of an interview on the subject of children's rights with the State Secretary who has particular responsibility for youth policy. This material encourages the local broadcasting organisations as part of the campaign to ask the relevant alderman or local politicians what they are doing to formulate youth policy. A "tool kit" has been developed for people engaged in social and cultural work drawing attention to various aspects of children's rights.

9. The first National Youth Debate was held in the Lower House of the States General on 20 November 1995, Universal Children's Day, to mark the ratification by the Netherlands of the Convention in that year. Seventy children aged between 10 and 18 debated with government ministers and members of parliament on the rights of the child. Those taking part included the Prime Minister and the Ministers of Justice, of Education, of Social Affairs

and of Health and Welfare. A report of the debate in the form of a video tape and a booklet has been sent to all Dutch municipalities with a request that a similar debate be initiated at local level. Enclosed with the report was a guide to organizing a municipal youth debate. A national youth debate was held again in 1996. During this debate various undertakings were given by the government ministers and local politicians present, among other things about the use of computers in education, the appointment of youth panels at government ministries and the participation of young people in the affairs of the municipalities through the establishment of municipal youth councils. A start has already been made on the establishment of youth panels at the government ministries.

10. The first Children's Rights Festival was held in Brabant in 1995. Children's rights were a central theme of the festival. The festival featured performances by a wide range of performers and was attended by the Prime Minister and State Secretary who has particular responsibility for youth policy on behalf of the Netherlands Government. The Prime Minister was appointed as patron of the monument to children's rights. The press too gave extensive coverage to the theme of children's rights.

11. A Youth Referendum was held for the first time in October 1995 by an organization called Codename: Future. The Youth Referendum was held for the second time in 1996. Two hundred thousand young people made known their views on a wide variety of subjects. The results of the referendum formed the basis for the Second National Youth Debate which was held in the Congresgebouw in The Hague on 9 December 1996.

12. The children's rights campaign entitled "Met praten kom je tot je recht" (By talking you can do yourself justice) was officially launched in the municipality of Haarlem on 24 April 1996. To mark the start of the campaign a Youth Municipal Council was established in Haarlem. Youth councils are now active in 20 municipalities in the Netherlands. More and more municipalities are now taking steps to involve young people actively in policy through youth councils or panels. The introduction of the Dutch Youth Prize was also announced in Haarlem. This is a prize to reward measures taken by young people in the 6-18 age group to improve their own living conditions. The Dutch Youth Prize was awarded to the Youth Municipal Council of Boxtel in 1996 for its efforts in promoting swimming lessons for Islamic girls in their municipality. All activities in connection with the campaign have generated much publicity at national and local levels for the subject of the rights of the child and hence for the Convention too. Activities are being or have been organized in many municipalities as part of the information campaign. Private organizations, schools and young people themselves have been involved in them. The campaign has produced a number of structural effects, in particular the attention generated among local politicians in the interests of young people. Youth participation has become an important political issue and the rights of the child are being taken as a guideline in many municipalities. The Government has set aside 1.7 million guilders in 1995 and 1.1 million guilders in 1996 for this campaign. The intention is that from 1996 onwards government responsibility for publicizing the rights of the child should be fully transferred to the municipal authorities.

C. Measures taken or foreseen to make the report widely available to the public at large

13. This report, of which a large number of copies will be printed, will be made known to the general public through non-governmental organizations. It will be distributed inter alia to institutions working in the field of childcare. It will be available to interested citizens free of charge.

II. DEFINITION OF THE CHILD

A. Definition

14. The definition of a child in the Dutch Civil Code is in keeping with that of article 2 of the Convention. "Minors are persons who have not reached the age of eighteen years and are not and have never been married and have not been declared adult by the application of article 253 ha" (Civil Code, article 1:233). Since 1 November 1993 article 253 ha of Book 1 of the Civil Code has allowed minor women aged 16 or 17 to have parental authority of their child if they wish to care for and raise it themselves. This is arranged through a declaration of adulthood issued by the juvenile court judge if he considers this to be in the interests of both mother and child.

B. Age of civil majority

15. The age of civil majority is fixed at 18 years (Act of 1 July 1987, which came into force on 1 January 1988).

16. If he acts with the consent of his legal representative, a minor is competent to perform legal acts (Civil Code, article 1:234, as amended on 2 November 1995). This rule means that minors are competent to perform legal acts themselves provided they have the consent of their parent(s) or guardian. However, consent may be given by legal representatives (the parent/parents or guardian) only if they themselves have the power to perform the legal act on behalf of the minor.

17. A legal representative may give consent only for a given legal act or for a given object. It follows that a minor cannot be given full legal capacity by a general consent. The requirement that consent for a given object must be in writing has been abolished (as of 2 November 1995). Since the wording of article 1:234 was amended on 2 November 1995, consent is presumed to have been given to a minor to perform a legal act if the act in question is one which is, according to common usage, performed by minors of his or her age. Once it has been established that the legal act comes within this category, the act is deemed to be performed with the consent of the legal representative and is equivalent to a legal act performed by an adult. This most important provision ensures that minors are able to act as an independent person in legal transactions in many fields in accordance with existing practice. The aim is to take account of the greater responsibilities accepted by young people and to acknowledge this in the acts of daily life.

18. The competence of minors to perform legal acts applies unless the law provides otherwise. For example, a minor who has been given limited independent contractual capacity by the court may exercise the powers of an

adult, i.e. without the necessity of obtaining the consent of the legal representative. Some other examples of competence for which the consent of the legal representative is not required at all are where a 16- or 17-year-old applies for the appointment of a special representative in the event of a conflict of interest of a material and/or non-material nature between the child and its parent(s) or guardian (article 1:250 Civil Code) or concludes an agreement for medical treatment for himself/herself (article 7:447 Civil Code, took effect on 1 April 1995). Where children aged 12-16 are to undergo medical treatment, it is necessary to have both their consent and the consent of their parents or guardian. However, the consent of the parents or the guardian is not required if the treatment is clearly necessary in order to avert serious danger to a minor aged 12-16 or if the minor well considered continues to wish to receive the treatment despite the refusal of the parents to give consent (article 7:450 Civil Code).

C. Minimum legal age for the exercise of certain rights and obligations

19. Consent to marriage. The age at which a person can lawfully enter into a marriage is uniformly fixed at 18 for both men and women. This age requirement, which is the same as the age of legal capacity, does not apply if a man and a woman are both aged 16 or over and the woman lodges a doctor's statement that she is pregnant or if a child has already been born to the parties concerned. In this situation priority is given to the manifest wish of the prospective spouses to raise their child together. It is also possible to obtain a marriage licence at a younger age on "serious grounds". In such cases the main consideration is whether the prospective spouses are actually capable of taking responsibility for raising the child.

20. Voluntary enlistment in the armed forces. See under article 38.

21. Call-up. In 1995 any obligation to do military service was suspended. As regards wartime, see under article 38.

22. Part-time work. This is dealt with in more detail under article 32.

23. Full-time work. Under the Civil Code a person aged 16 or over has been able to enter into an employment contract without the consent of his or her parents since 1 April 1997. However, a child is obliged by law to attend school until the age of 17. This is dealt with in more detail under article 28, paragraph 1 (b).

24. Freedom to testify before the courts. Under article 203, paragraph 3, of the Code of Civil Procedure, a witness who has not yet reached the age of 16 and a witness who is unable adequately to comprehend the meaning of the oath is not required to take an oath. He or she is then warned to tell the whole truth and nothing but the truth. If evidence is accepted in part on the strength of the statement by the witness, the judgment must make particular mention of the reason for this.

25. Criminal liability. Young people who have not yet reached the age of 12 years when they commit an offence (i.e. a criminal offence) may not be prosecuted. This means that in appropriate circumstances a child may be

arrested and asked by an investigating officer to give his or her name. The child may also be questioned and searched and his or her possessions may be confiscated. More far-reaching measures such as police custody and remand in custody are not possible. In such cases the public prosecutor does not have a right of prosecution. If charges should be brought, the court is required to hold that the case is inadmissible.

26. Other legislation. The minimum legal ages which apply to the following subjects may be found at the places in the text where these subjects are discussed:

(a) Compulsory education, see at discussion of article 28;

(b) Hazardous employment, see at discussion of article 32;

(c) Deprivation of liberty, see at discussion of article 37 paragraph (a).

III. GENERAL PRINCIPLES

A. Non-discrimination (article 2)

National law

27. The Netherlands Government refers to the fundamental right of equal treatment laid down in article 1 of the Constitution. This article provides that all persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever is not permitted. The non-discrimination provision does not require equal treatment if there is an objective justification for a difference in treatment. In addition, it is necessary first of all to ascertain whether the distinction made in a particular case did not after all serve a reasonable object and was accordingly not disproportionate (requirement of proportionality).

28. The Equal Treatment Act (Algemene wet gelijke behandeling) contains general rules to protect against discrimination on the grounds of religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status. The Equal Treatment Decree gives a more detailed definition of cases in which the sex, external features or nationality of the person concerned is decisive or where the protection of women is concerned. For a further description of the Equal Treatment Act the Netherlands Government would refer to the core document (HRI/CORE/1/Add.66).

29. Discrimination on any ground whatever is a criminal offence in the Netherlands under the Criminal Code. The Netherlands Government would refer in particular to article 90 (quater) of the Criminal Code which provides that: "Discrimination or discriminating means every form of distinction and every exclusion, limitation or preference which is intended to prevent or undermine the recognition, enjoyment or exercise on an equal footing of human rights and fundamental freedoms in the political, economic, social or cultural fields or in other areas of public life or which may have this result".

30. The Netherlands Government also wishes to bring to the attention of the Committee the guideline on discrimination for the police and the public prosecution service. The guideline on discrimination cases of the procurators general took effect in September 1993 (Government Gazette 1993, 171). The guideline is based mainly on the results of an evaluation study and the anti-discrimination provision which has been in force since 1992.

31. The guideline pays much attention to prosecution policy. This is because cases may fail as the result of an incorrect assessment at the start of an investigation. Such mistakes must be avoided. It is also necessary to ensure that any discriminatory element in an "ordinary" criminal offence does not become invisible. The guideline states among other things that the police must prepare an official report of all informations laid and complaints made in respect of discrimination and that the report should be sent as quickly as possible to the public prosecution service.

32. The guideline also provides that the public prosecutions department is responsible for actively investigating cases of discrimination and should as a rule press charges where there has been discrimination. The guideline recommends that discrimination case coordinators be appointed by the police and the public prosecution service and should consult periodically with local discrimination reporting centres. One of the procurators general has now been designated to have special responsibility for discrimination cases and each district prosecution unit has designated a public prosecutor to have similar responsibility. Various police forces have also appointed a coordinator for discrimination cases. The guideline also contains a number of principles for sentencing in discrimination cases and cases containing an element of discrimination.

Conventions

33. In the view of the Netherlands Government, article 2 of the Convention on the Rights of the Child means that no distinction may be made between children born in wedlock and children born out of wedlock. The bill (which is expected to come into force on 1 January 1998) makes proposals for adjusting the law on affiliation to take account of the stream of judgements on this subject. The law on affiliation will continue to be based on natural descent. The terms legitimate, illegitimate and natural will be dropped. The criterion that has replaced them is whether or not a child has a family law relationship with a parent. The father and the mother have been given an equal right to deny paternity arising from marriage in cases where the father is not the natural father. The child too will have the right to deny paternity. Ground for denial is the fact that the father is not the natural father. Where a child is under 16 and the father wishes to recognize paternity, the consent of the mother is required. The consent of the child too is required for recognition of paternity if it is aged 12 or over. Unlike the situation under the current law but in accordance with the case law of the Supreme Court, a married man may also recognize a child in cases where it is shown that a relationship exists or existed between the man and the mother which is sufficiently close to be equated with marriage or if there is a close personal relationship between the man and the child.

34. Paragraph 2 of article 2 of the Convention on the Rights of the Child obliges the States parties to take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of certain acts of its parents or of third parties. The Netherlands Government believes that Dutch law complies with these requirements. Reference is made in particular to the child-care and protection measures which may be taken by the justice authorities, such as care orders in respect of the child and orders relieving parents of their parental authority or withdrawing them from such authority.

35. A family supervision order may be made (under article 1:254 et seq. Civil Code) if a minor is growing up in such a way that his moral or mental welfare or his health is seriously at risk and other means of averting this danger have failed or are expected to fail. Where the provision of assistance on a voluntary basis is not possible (or no longer possible), the juvenile court judge places the child under the supervision of a family supervision institution accepted by the Minister of Justice, as referred to in the Youth Services Act (Wet op de jeugdhulpverlening). The purpose of the measure is to provide help and support to the parents in order to avert the threat to the moral or mental welfare of the child or to its health. The measure is designed to preserve the ties between the child and its parents. The help and support will be concentrated on increasing the independence of the child where this is necessary in view of the child's age, stage of development and competence and its need to act independently and live its life as it sees fit.

36. A parent may be relieved from parental authority if he or she is unsuitable or is incapable of fulfilling the parental duties of caring for and raising the child. It is also necessary that this should not take place contrary to the child's best interests. In general, a parent may not be relieved from parental authority if he or she objects.

37. A parent may be withdrawn of parental authority (i.e. regardless of his or her wishes) if this is necessary in the interests of the child and there are specific grounds for this, for example abuse of authority, serious failure to perform the duties of caring for and raising the child, reprehensible way of life or a criminal conviction of the parent for particular offences.

38. As a rule, a guardianship institution as referred to in the Youth Services Act is appointed as the child's guardian after a parent has been relieved from or withdrawn of parental authority. Guardianship and family supervision institutions are required to comply with the Guardianship and Family Supervision Institutions (Quality Rules and Duties) Decree (Stb. 1990, 354).

39. The Netherlands is a party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) which contain similar provisions on discrimination (article 2 (1) ICCPR and article 2 (2) ICESCR).

40. Article 2 (1) ICCPR does not contain a ban on discrimination in the widest sense; it relates merely to the rights referred to in the Covenant and is therefore of a more limited scope than article 26 ICCPR. In other respects the scope of article 2 (1) and article 26 is the same. Both contain a ban on

discrimination which is aimed at both the legislative and the administrative authorities and which is formulated in such a way that, in the opinion of the Netherlands Government, citizens can invoke the provision directly. Article 14 ICCPR too is important in this respect. This article provides that all persons are entitled to equal treatment before the courts, but paragraph 4 states that in the case of juvenile persons the procedure should be such as to take account of their age and the desirability of promoting their rehabilitation.

41. The Netherlands is also a party to the International Convention on the Elimination of All Forms of Racial Discrimination.

B. Best interests of the child (article 3)

42. The parents have prime responsibility for keeping and bringing up the child, but they or other persons legally responsible for the child (including persons responsible for keeping and bringing up the child without having parental responsibilities) must respect the child's life and personal integrity. The best interests of the child are for them not just one of a number of considerations but their prime concern. Where there is a conflict of interest (as for example with the principle of equal treatment of men and women), the interests of the child will generally prevail. This is of particular importance in the case of decisions by judicial authorities which have to assess measures relating to children. See for example article 1:254 (family supervision order) and article 1:266, article 269, paragraph 1, and article 327, paragraph 1, Civil Code (release from and withdrawal of parental authority and withdrawal of a guardian of his guardianship).

43. Under article 1:254 Civil Code, a family supervision order may be made only if other means of averting the danger to the moral or mental welfare or the health of the child have failed or are expected to fail. This means first and foremost that voluntary assistance - i.e. assistance provided without the parental authority first being limited by the courts - must be tried or there must be a likelihood that it will not help. Under article 1:266 Civil Code a parent may be relieved from parental authority provided that this would not be contrary to the child's interests. And under article 1:269 Civil Code a parent may be withdrawn of parental authority if the court considers this to be necessary in the interests of the child.

44. Under paragraph 3 of article 3 of the Convention, the States parties are obliged to ensure that the institutions, services and facilities responsible for the care or protection of children conform with the standards established by law for the protection of children. This concerns particularly the areas of safety, health, the number and suitability of staff, and competent supervision. These are requirements with which the Dutch statutory arrangements comply. Safeguards of this kind are provided, among other things, in or under the Youth Services Act and the Social Welfare Act (Welzijnswet, Stb. 1987, 73). Reference should be made in particular to the Guardianship and Family Supervision Institutions (Quality Rules and Duties) Decree (Stb. 1990, 354). One of the provisions of this Decree is that guardianship and family supervision institutions should draw up a plan

containing a description of functions and activities to be performed on the basis of the institution's objectives and outlining the procedure to be followed. The following should in any event be contained in the plan:

(a) The starting-points on which the policy of the institution is based, geared to the problems and disturbances of the young people;

(b) The staff establishment and the way in which the responsibilities for the different functions are divided within the institution, together with an indication of whether the institutions make use of the services of people who work other than in a professional capacity, and if so on what conditions;

(c) The size and layout of the premises;

(d) The procedure for handling complaints;

(e) The procedure for allowing inspection and providing copies of documents concerning the child;

(f) What is included in the file on the child;

(g) A description of how the cooperation with the appropriate persons, institutions and authorities in the region and, if necessary, elsewhere is organized.

45. The number and quality of the staff should be geared to the functions and activities of the institution and of the minors for whom it works. The Decree also contains rules concerning the conditions on which persons other than professional staff may be used and the premises of the institution and assistance plans. The premises must be accessible to people with a physical disability and the consultancy and treatment areas must be arranged in such a way that the privacy of the people receiving help and assistance is guaranteed. An assistance plan must be drawn up for each young person within six weeks. This plan may not be drawn up or altered unless there has been prior consultation with the young person concerned, to the extent that this is possible in the light of his or her powers of judgement, and with the parents (unless the latter consultation would clearly be harmful to the young person).

46. Under the above-mentioned two laws, the provinces and municipalities too have a major responsibility for ensuring observance of this provision, although the "quality requirements" referred to here are established by the central Government.

47. There is an independent inspectorate which supervises the quality of youth assistance and youth protection. The independence of the inspectorate from the policy-making authorities is guaranteed by the place of the inspectorate within the organizational structure of the Ministry of Health, Welfare and Sport and by the procedure followed by the inspectorate in discharging its statutory duties. The position and procedure of the inspectorate have been recorded in a reorganization report that sets out the Government's position and has been approved by the Lower House of Parliament. A bill to regulate the position and procedure of the inspectorate by law is currently being prepared.

Policy document on preventive and curative youth care

48. A policy document on preventive and curative youth care in the period 1996-1999 sets out a policy designed to provide a future for young people. Elements of this "policy outlook" include:

(a) Youth on the agenda: young people and the interests of young people should, ideally, be permanently on the political agenda of both local and central Government;

(b) Commitment and involvement of young people: children and young people have an important role to play in shaping society and as such have their own rights and responsibilities. They should naturally have a say in planning their own immediate environment and surroundings, in shaping the support and guidance provided by institutions and the system of facilities, and in formulating the youth policy of government authorities. Institutions and authorities regulate and monitor this involvement.

49. The desired situation described above is in many respects still merely an ideal. For example, the increased assertiveness of young people has not yet been translated into scope for a greater systematic contribution to policy. Youth crime and nuisance caused by young people are still more likely to put young people on the local and national political agenda than the issue of how the strengths of young people can be promoted and their social position improved. Despite all the efforts and improvements that have been made, education still has insufficient appeal for certain groups of young people. In many respects, there is still insufficient coordination between the activities of the schools, health-care services, general social services, cultural workers, manpower services, youth services and the police. There is little evidence of the adoption of a demand-driven approach. Indeed, both the institutions and the different tiers of government lack the information about the developments and needs of young people that would be necessary for such an approach. Ways of tackling these problems and finding solutions to them are being sought through cooperation and coordination between the various government bodies and other organizations involved.

C. The right to life, survival and development (article 6)

50. Under the provisions of the Civil Code (as amended on 1 January 1995) a child acquires legal personality, i.e. a legal existence, on the day he or she is born provided he or she is born alive and his or her life is viable. If a child dies before the period for reporting the birth has expired (three days from the date of birth), both a birth certificate and a death certificate are drawn up (article 1:19 (i), paragraph 2, Civil Code). In fact, the civil law goes further in that it recognizes that a child exists in the eyes of the law before he or she is born although he or she has no name or age. Article 2 of the Civil Code contains the "nasciturus rule", under which a child may inherit and receive gifts subject to the suspensive condition that he or she is born alive and is viable.

51. Abortion is permitted in certain situations expressly provided for in the Act of 1 May 1981 (Stb. 257), namely if the needs of the woman are such that abortion is unavoidable. The protection consists in the fact that the

procedure to be followed ensures that the decision in a particular case is taken with care. If the specified conditions are not fulfilled, induced abortion is a criminal offence.

52. Prenatal support and assistance is provided for mother and child.

D. Respect for the views of the child (article 12)

1. Family, school, neighbourhood

53. Article 12 defines the right of a child to form its own views and to express them freely in all matters affecting the child. Proper account must be taken of the child's views. The child also has the right freely to express its views on all kinds of subjects in the family, at school and in the neighbourhood.

Family

54. Since the 1960s the situation within families has gradually changed. The old authoritarian regime has given way to a more relaxed arrangement of negotiation. The child is increasingly regarded as a member of the family who has a specific contribution to make to the day-to-day affairs of the household. In most families it is now considered normal for children to express their views on subjects that concern them and for their views to be taken into account. Needless to say, this does not mean that children should always get their way. Although the parents continue to have ultimate responsibility for the child, they have a duty to explain to their children why they have taken a particular position and why certain things are possible and others not. In this way children can learn that their involvement and contribution are appreciated. This is reflected in articles 1:247 and 1:249 Civil Code, which have been in force in their current form since 2 November 1995.

School

55. Minors under the age of 16 are required by law to attend school. Apart from their family, school is the most important institution in the life of children. This is why it is important that schools too should respect the right of children to have their own views. The existing instruments for this purpose are:

(a) The student charter. Secondary schools are obliged by law to have a student charter defining the rules applicable at school and the legal status of pupils (section 24 (g) Secondary Education Act). The charter covers such matters as the right to object to the way in which assessments and tests are carried out, the way in which pupils can express a preference for a particular study or package of studies, the way in which reports are discussed and the way in which the freedom of expression of opinion is regulated for the pupils, for example in the editorial charter of the school magazine. The student charter may be adopted or altered only with the consent of the participation council;

(b) The participation council. The position of parents/carers as statutory representatives of pupils is regulated in the Participation (Education) Act 1992 (Wet medezeggenschap onderwijs). This lays down that each school must have a participation council in which parents and secondary school pupils (from the age of 13) take part. The school management is obliged to obtain the consent of the participation council in some matters (e.g. the student charter). In addition, the participation council has the power to volunteer advice;

(c) The student council. The pupils have the opportunity to influence events at and connected with school. A student council represents the views of the pupils at a school. The council may also concern itself with improving the atmosphere at school and the quality of the education. The most important right of the student council is to make recommendations to the participation council;

(d) School work plan. Secondary schools are required to draw up a school work plan recording the organization and content of the education given at the school. The school work plan must be submitted to the participation council for approval. Pupils must be able to evaluate the school work plan annually;

(e) Codes of conduct. Some schools have introduced codes of conduct for teaching staff and pupils governing such subjects as bullying, racism and dealing with child abuse;

(f) Counselling for pupils. Many schools arrange individual counselling for pupils through teachers who are designated as school counsellor, tutor or careers officer;

(g) Official confidant. A confidant who can be consulted by pupils who have problems at home or at school has been appointed at some schools. In addition, social workers are active at many schools;

(h) The disputes committee. Each school must have an external disputes committee which can give rulings - often of a binding nature - on decisions which differ from the recommendation of the participation council;

(i) Other instruments. Additional instruments which can help to ensure that the views of pupils are taken seriously include the school magazine, special notice boards and the complaints line of the National Pupils Action Committee, an institution funded by the Netherlands Government which represents the interests of pupils.

Youth care

56. The following instruments play a role in ensuring that the views of minor clients of the youth care services (youth services, youth health care and youth protection) are taken seriously:

Diagnosis of situation, indication of assistance and preparation of assistance plan

Preparation of fostering contracts for placement in foster families

Hearing of young people by the child-care and protection board

Hearing of young people by the courts

Family procedural law and the minor as an interested party

Contact with parents and family guardian or guardian

Legal status rules/internal rules/committee of supervision at private and government institutions

Inspection and copies of documents concerning the young person and the right to information

Complaint schemes

Youth councils

Client organizations and pressure groups

2. The right to be heard in legal proceedings

57. Article 7 of the Constitution of the Netherlands guarantees all citizens, including children, the right to express their views on any subject. A number of legal provisions specify that children should be heard in certain situations, either to discover their opinion or to obtain their consent. In general, a minor aged 12 or over should be given the opportunity to inform the court of his or her opinion on matters of general relevance and on particular matters such as a decision to be taken regarding custody, control of his or her property, access and contractual capacity. The court is also competent to allow children under the age of 12 to make known their views on a matter requiring decision.

58. The views of children, particularly younger children, may also be disclosed in the report of the child-care and protection board. Minors aged 12 and over are entitled to inspect - and obtain a copy of - court documents in a case concerning them, unless the court considers that they are unable to form a reasonable judgement of their own interests. Where a child is to be adopted or paternity is to be acknowledged, the consent of the child is required if it has attained the age of 12 (bill which will probably come into force on 1 January 1998). A child aged 12 or over and a child that has not reached this age but has a sufficient understanding may apply to the court for access to a parent or for information to be given to a parent concerning its well-being. It may also apply for an order that the parent not having parental authority be consulted by the other parent about major decisions concerning the child.

59. In the opinion of the Netherlands Government, article 12 is also relevant to a proper understanding of article 14 of the Convention concerning freedom of thought, conscience and religion. In this way, the latter article can have the same scope as article 18 of the ICCPR.

60. We would refer in particular to the following two bills, which are likely to become law before 1 January 1998:

(a) Bill to amend the Youth Services Act with reference to participation, presented to Parliament on 11 April 1996. The bill imposes an obligation on the youth help organizations and guardianship and family supervision institutions to establish a clients' council to represent the common interests of the clients. The organizations concerned must request the council for advice on certain proposed decisions specified in the bill;

(b) Amendment of the Youth Services Act with reference to the right of complaint, presented to Parliament on 8 May 1996. Youth help organizations and guardianship and family supervision institutions are obliged to take measures to deal with complaints about their actions or the actions of persons employed by them in relation to young people and in relation to their parents, guardian, step-parent or foster parent. After a complaint has been dealt with internally, the complainant may refer the complaint to a provincial or metropolitan complaints committee. The complaints committee may issue a recommendation together with its opinion on the merits of the complaint.

61. Recently, the question of whether the institution of children's ombudsman, as it exists, for example, in Norway, should be introduced in the Netherlands was expressly considered again. The following points were taken into account. The duties of the Norwegian children's ombudsman are performed in the Netherlands by various organizations. The function of the children's law polyclinics in the Netherlands is to provide advice and information in connection with problems of a legal nature and to identify problems affecting minors in their dealings with government bodies and other authorities. In the light of the Convention on the Rights of the Child, the children's law polyclinics have now decided to catalogue in more detail the legal assistance provided to children by means of contacts with parents, social workers and teachers. It should be noted that the number of children's law polyclinics has now been increased to nine (Amsterdam, Groningen, The Hague, Hengelo, Leiden, Maastricht, Nijmegen, Rotterdam and Utrecht). As far as the provision of advice on the application of government policy on minors is concerned, the Netherlands has an institution known as the Child-care and Protection Advisory Board. There is also a special telephone line for children which is staffed by people who provide advice on a wide range of subjects. This is arranged under the Youth Services Act.

62. It follows that the functions of the children's ombudsman are already performed in the Netherlands, albeit by different organizations; the Government does not, therefore, see any real value in the introduction of a new institution such as a children's ombudsman in the Netherlands.

63. In late 1995 the Government once again examined whether children in general should themselves be able to apply to the court if their rights are infringed. Various proposals for widening their rights have been or will be made. For example, minors under the age of 16 have been able to conclude a contract of employment independently and take part in proceedings in respect of such contracts since 1 April 1997. The power to act independently in law will also be proposed in respect of agreements for medical treatment entered

into by 16- and 17-year-olds on their own behalf. In other respects, the basic principle will continue to be that where there is a dispute between a minor and his or her parents or guardian, the minor's interests will be looked after, both in law and otherwise, by a special representative. This may happen whenever a conflict of interest arises between a child and its parents or guardian, provided that it is of a substantial nature. The special representative may also act for the minor in a conflict with a third party in which the parents or guardian are unwilling to represent the minor.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (article 7)

64. Each child is registered immediately after birth, and has the right from birth to a name and a nationality. The arrangement governing the right to a name and nationality is such that the child always has a name and nationality.

The right to a name

65. The father is obliged to register the birth of his child with the registrar of births, deaths and marriages within three days of the birth. If the father is absent or is unable to register the birth, any person present at the birth of the child is obliged to register the birth. The mother is also entitled to register the birth (article 1:19e Civil Code). Failure to register is a criminal offence (article 448 Criminal Code).

66. The registrar of births, deaths and marriages checks the identity of the person making the registration. The registrar may also require a statement from a doctor or midwife present at the birth, certifying that the child was born to the woman stated to be the mother. If the persons entitled or obliged to register the birth fail to do so or are absent, the birth must be registered by the burgomaster of the municipality where the birth certificate is to be drawn up. This happens, for example, in the case of a foundling (article 1:19e Civil Code).

67. A child takes the surname of the father from birth. The paternity of the child is determined by the following rules. The father is the person who is the husband of the mother at the time of the child's birth. This is also the case where the marriage is dissolved as a result of death or divorce, provided that the child is born before the 307th day after the dissolution of the marriage. If the mother has, however, remarried during this period, the new husband is the father. The father of a child born out of wedlock is the person who has acknowledged the child. It is not necessary that the man acknowledging the child should marry the mother. If there is no father as described above, the child takes the surname of the mother. If the identity of the mother is unknown, the registrar of births, deaths and marriages enters a provisional surname. The Crown takes a final decision on the surname (article 1:5 Civil Code). The surname is proved by the birth certificate. If a person does not know his or her surname, he or she may apply to the Crown for a surname to be adopted.

68. On 23 September 1988 the Supreme Court held that the parents have a right under article 26 of the International Covenant on Civil and Political

Rights to choose a surname for their child themselves (NJ 1989, 740). As a result of this judgement, the Netherlands Government has drafted legislation that would enable parents themselves to decide whether their children are to take the surname of the father or of the mother. The parents must make known this choice when registering the birth of the first child. If the parents fail to make a choice, the child takes the name of the father. Once a choice has been made, it will apply to all the children of the parents. A new feature in the bill is also that a child does not automatically receive the surname of the father in the event of acknowledgement. The child retains the mother's name unless the mother and the person acknowledging the child together agree that it should have the father's name. It is intended that the bill in question should become law and take effect on 1 January 1998.

69. The forenames of a child are notified by the person registering the birth to the registrar of births, deaths and marriages and are included in the birth certificate. The registrar may refuse to include the forenames in the birth certificate if they are unsuitable or resemble an existing surname, unless the latter is also a common forename. If the person making the registration does not specify any forenames or if they are all refused by the registrar and are not replaced with one or more other names by the person registering the birth, the registrar, acting ex officio, will give the child one or more forenames and state expressly in the certificate that the forenames were given ex officio (article 1:4 Civil Code). If a person does not know his or her forenames, the Crown may be asked to determine one or more forenames.

The right to nationality

70. A child acquires Netherlands nationality if the father or the mother was a Dutch citizen at the time of the birth. This also applies if the father died before the birth. The identity of the father is determined in accordance with the rules given above.

71. Foundlings discovered in the territory of the Netherlands, the Netherlands Antilles or Aruba acquire Netherlands nationality. The same applies to children found on board a ship or aircraft of the Netherlands, Netherlands Antilles or Aruba. If it should be discovered within five years of the date on which the child is found that it has a foreign nationality it loses Netherlands nationality. A child also acquires Netherlands nationality if the father or mother is resident in the Netherlands or the overseas territories at the time of the birth and the father or mother is the child of a mother resident in one of these countries (section 3 of the Netherlands Nationality Act).

72. A foreign minor acquires Netherlands nationality as a result of recognition of paternity by a Dutch citizen or by legitimization. A child of this minor also acquires Netherlands nationality as a result of such recognition or legitimization (section 4 of the Netherlands Nationality Act). A child may also acquire Netherlands nationality by adoption. It is necessary that the adoptive father or the adoptive mother should be a Netherlands national on the day that the judgement becomes final. The judgement must be given by a court in the Netherlands, the Netherlands Antilles or Aruba. It is

also necessary that the child was a minor on the day of the judgement at first instance. A child of the minor shares in the acquisition of Netherlands nationality (section 5 of the Netherlands Nationality Act).

73. Stateless minors who are born in the Netherlands, the Netherlands Antilles or Aruba and have lived or had their actual residence there for at least three years may acquire Netherlands nationality. The legal representative of the child must submit a statement for this purpose (section 6 of the Netherlands Nationality Act). A child shares in the Netherlands nationality of its naturalized father or mother (section 11 of the Netherlands Nationality Act).

74. A minor loses Netherlands nationality if:

(a) He/she is recognized, legimitated or adopted by an alien, unless the Netherlands nationality is not lost under the national law of the alien;

(b) His/her father or mother (or adoptive father or mother) voluntarily acquires another nationality, unless the child does not acquire this nationality;

(c) His/her father or mother (or adoptive father or mother) loses Netherlands nationality;

(d) He/she independently acquires the same nationality as his/her father or mother (or adoptive father or mother)

(section 16 of the Netherlands Nationality Act).

75. Netherlands nationality is not lost by a minor in all cases in which the father or mother (or adoptive father or mother) loses Netherlands nationality. This is only the case:

(a) If the father or mother (or adoptive father or mother) renounces Netherlands nationality;

(b) If the father or mother (or adoptive father or mother) has, in summary, lived outside the Netherlands or the overseas territories for an uninterrupted period of 10 years after attaining his or her majority;

(c) If the decree granting Netherlands nationality is cancelled on account of the failure of the father or mother (or adoptive father or mother) to renounce the original nationality.

The child does not lose Netherlands nationality if and as long as the other parent possesses Netherlands nationality.

<u>The right of a child to know its parents and be cared for by them</u>

76. The right of a child to know its parents is fulfilled automatically if the child grows up with its parents. This is the most common situation. The mother of the child is the person who has given birth to it. The identity of the father has been discussed above in relation to the right to a name. It

follows from this arrangement that the natural father is not necessarily the legal father. For example, a sperm donor - i.e. a man not married to the woman who gives birth to the child, but who has supplied sperm - is not in principle the legal father. It may be asked whether the child is entitled to know the name of the donor. A judgement on this matter was given by the Supreme Court in 1994 (HR 15 April 1994, NJ 1994, 608). In this judgement the Supreme Court stated that "the general right of personality underlying such fundamental rights as the right to respect for privacy, the right to freedom of opinion, conscience and religion and the right to freedom of expression also includes the right to know the identity of the parents from whom one is descended". The Supreme Court referred to article 7 of the Convention on the Rights of the Child. It continued, "The right to know the identity of the parents from whom one is descended is not absolute. This right must yield to the rights and freedoms of others if they weigh more heavily in a given case." This means, for example, that the interests of the mother and those of the man who has supplied the sperm must also be taken into account. In the case of adoption, it is standard practice for the child to be informed about its natural parents. The adoption court checks that this has been done.

77. A bill to alter the law on filiation is before Parliament. This will probably take effect on 1 January 1998. This clearly regulates that paternity may be denied by the father, the mother and the child if the father is not the biological father. In addition, the bill provides that paternity may not be established by voluntary recognition without the consent of the minor if he or she is aged 12 or over. In addition, an affiliation order may be made by the court against and without the consent of the natural father.

78. The right of a child to be cared for by his or her parents is regulated in article 1:245 et seq. of the Civil Code. As a result of certain events such as divorce or the death of the parents, it may be impossible for this right of the child to be fulfilled within the family. Sometimes it may also be in the interests of the child if he or she is removed from the family for a time. This may be the case where the interests or the health of the child are seriously endangered. In such circumstances the assistance provided to the child and the parents should be aimed at reuniting the child with its family. It may also be in the interests of the child to be adopted. In this case he or she does not return to his or her original parents. Since adoption is a very far-reaching measure, the rules surrounding it are very strict. The prospects of the child if he or she remains with his or her own parents have to be compared with its prospects with the adoptive parents. If his or her prospects with the adoptive parents are better, adoption is possible.

B. Preservation of identity (article 8)

79. After his or her birth a child is free and entitled to the enjoyment of civil rights (article 1:1 Civil Code). Children are entitled to a name and a nationality. Both the forename and the surname give the child its own identity. The exclusiveness of the child's name follows from what has been said above with regard to the right to a name. If a person uses the name of another person without consent, he or she acts unlawfully towards that other person by pretending either to be that other person or to be descended from him or her or to be a member of his or her family (article 1:8 Civil Code).

80. A request for change of the surname of a minor may be made only by the legal representative of the child. The request must be made to the Minister of Justice. The surname is changed by the Crown. A surname may be changed if the name is obviously improper or preposterous, is insufficiently distinctive or is incorrectly spelled. In addition, persons being naturalized may request that a non-Dutch surname be changed. Minors may have their surname changed to that of the person caring for them. The forenames of a minor may also be changed at the request of the legal representative. Such a request must be addressed to the court. A minor may inform the court of his or her view on this change of forename.

81. The nationality of minors has been dealt with above (in relation to article 7).

82. A child has family relations with its parents and their blood relatives. If the child is adopted, it loses these family relations. Adoption is regulated by law and is possible only in the interests of the child.

83. If mistakes occur in a birth certificate or if a certificate is incomplete, the court may order that the certificate be amended or supplemented at the request of interested parties or on the application of the public prosecution service.

84. The Placement of Foreign Foster Children Act (Wet opneming buitenlandse pleegkinderen) regulates the placement of foreign adoptive children and foster children. The Act regulates when prospective adoptive parents are eligible to have a foreign foster child placed with them. It also designates supervisory bodies and bodies which have an exclusive power to act as intermediaries in adoption. Furthermore, it provides that failure to fulfil certain requirements constitutes a criminal offence.

C. Freedom of expression (article 13)

85. The fundamental rights and freedoms laid down in the Dutch Constitution apply to everyone, children and adults alike. Each citizen is therefore entitled to freedom of expression in relation to the government and society.

86. Article 7 of the Constitution provides that no one requires prior permission to publish thoughts or opinions through the press, without prejudice to the responsibility of every person under the law. It is not contrary to this provision that the law lays down rules concerning public order or the rights of other persons. For example, the law contains rules governing radio and television. There is no prior supervision of the contents of radio and television broadcasts. No one is required to submit thoughts or opinions for prior approval in order to disseminate them by other means, without prejudice to the responsibility of every person under the law. The holding of performances open to persons under the age of 16 may be regulated by act of Parliament in order to protect morals. This is why a measure of protection is provided for young people in the Film Censorship Act (Wet op de filmvertoningen, Stb. 1977, 170) as regards the gathering of information and ideas. The Act is based on article 7, paragraph 3, of the Constitution and

fulfils the requirements of article 17, opening words and part (e), of the Convention on the Rights of the Child. The Netherlands Government considers that article 13, like article 17 which deals with the mass media, provides encouragement for pursuing a policy on information for young people.

D. Access to information (article 17)

1. Subparagraph (a) - Public broadcasting

87. The public broadcasting organizations in the Netherlands are expected, as part of their public mission, to provide programmes intended for children and young people. In the case of the broadcasting associations, this is a consequence of the "full programme range" regulations. At least 30 per cent of the television programmes should contain elements of an informative or educational nature (section 50 of the Media Act, 1987). Since the Media Act was amended on 28 April 1994 (Stb. 385) one of the public broadcasting organizations, namely the Netherlands Programme Foundation (NPS), has been subject to a statutory requirement that its television programmes contain elements of an educational nature for young people. It is also regulated by law that the Netherlands Broadcasting Corporation (NOS), the body within which the Dutch public broadcasting organizations cooperate, should provide news for children and young people in its television programmes. The quality of the programmes is generally high, as is shown by the many international prizes received by the Dutch broadcasting organizations for their children's programmes.

Educational broadcasting organizations

88. Under the Dutch Media Act educational broadcasting organizations whose object is to provide educational programmes and whose management board consists of experts from the national organizations in the field of education and training are eligible for broadcasting time. At present they include the Netherlands School Television Association (NOT), the Television Academy (TELEAC) and educational broadcasting organization RVU.

De Kinderkast Foundation

89. The Netherlands Government subsidizes a private organization known as De Kinderkast Foundation, which works to promote high-quality television programmes for children and young people and to provide information designed to help children and young people to adopt a sensible approach to television. The Foundation is therefore represented on the programme council of the Netherlands Programme Foundation (NPS).

2. Subparagraph (b) - Encouragement of international cooperation

90. The Netherlands Government subsidizes international comparative research into trends in the behaviour of young people with regard to the media.

3. Subparagraph (c) - Encouragement of reading

91. The Netherlands Government has a policy of actively encouraging people to read. The aim is to convince young people and adults of the importance of reading. This is done in cooperation with various private organizations which are actively engaged in encouraging people to read.

Libraries

92. Children and young people have traditionally been a prime target group of public libraries in the Netherlands. The recent policy plan of the collective public libraries, united in the Dutch Centre for Public Libraries and Literature, reflects the crucial role of the public libraries in the cultural development of children and young people. The relations between schools and public libraries are usually very intensive. In order to increase the accessibility of this facility, most libraries exempt young people from the subscription charge. This has proved highly effective, since 80-90 per cent of Dutch children are members of a library.

Children's books

93. Dutch authors and illustrators of children's books are successful in the European market. The Government supports the production and dissemination of special youth editions through the Association for the Production and Translation of Dutch Literature. Children are actively involved in the assessment of children's books through children's juries. A foundation known as "Writers, Schools and Society", which is subsidized by the authorities, arranges for authors of children's books to visit schools and cultural institutions. These contacts between children and authors help to stimulate interest in reading.

4. Subparagraph (d) - Specific needs of the non-indigenous child

94. The Netherlands Programme Foundation (NPS) is required to devote 15 per cent of its television broadcasting time and 20 per cent of its radio broadcasting time to programmes about the multicultural society intended for non-indigenous population groups. For the time being a large part of these programmes should be in the language of the groups concerned.

5. Subparagraph (e) - Protection from injurious information

95. Young people in particular should be better equipped to learn independently from the overwhelming range of cultural programmes. The mass media undoubtedly have an important role to play in this connection, given the amount of time which young people spend watching television. The Netherlands Government therefore considers it important to identify trends in the use made of the media (both "old" and "new") by young people and therefore proposes to support international comparative research in this area. A topic which is rapidly becoming more important both in the Netherlands and in Europe as a whole is the injurious effect of violent television programmes on young people. Under the present Media Act (Mediawet) the Dutch broadcasting organizations are obliged to assess films, parts of films and other programme components in terms of their suitability for young people, to take account of

this in their programming and to provide information about the results before the broadcast. In this connection they must take account of the broadcasting hours laid down by law for films and parts of films (films for people aged 12 and over to be shown after 8 p.m. and films for the over-16s after 9 p.m.). The Media Authority monitors observance of these provisions of the Media Act, which are intended among other things to protect young people from the injurious effects of television violence. The Netherlands Government gave an undertaking to the Lower House of Parliament in the autumn of 1996 that it would prepare a policy paper on violence in the media (television, film and video) and, in formulating policy, would take account of the legislation currently being drafted in Europe in the context of the Directive on Television without Frontiers.

96. The De Kinderkast Foundation provides information to children and young people in order to teach them to adopt a sensible approach to watching television.

E. Freedom of thought, conscience and religion (article 14)

97. The freedom of religion is regulated in the Netherlands in the Constitution and applies to everyone, children and adults alike. Article 6 of the Constitution provides that everyone has the right to profess freely his religion or belief, either individually or in community with others, without prejudice to his responsibility under the law. It is not contrary to the freedom of religion for the law to regulate the exercise of this right other than in buildings and enclosed places for the protection of health, in the interests of traffic and to combat or prevent disorders. The Netherlands Government would also point out that article 23, paragraph 3, of the Constitution stipulates that education provided by public authorities is to be regulated by act of Parliament, paying due respect to everyone's religion or belief.

98. The Netherlands Government considers that as long as a child cannot yet be deemed able to form its own opinion, the parents or guardian may decide as they see fit on the religious education of their children. This is also the gist of article 5 of the Constitution. As soon as children may be deemed capable of forming their own opinion, however, parents or legal guardians must respect this opinion even if it is not in keeping with their own. The Netherlands Government believes that article 14 of the Convention should be widely interpreted. The article deals, after all, not only with the freedom of thought, conscience and religion but also with the freedom to adopt a religion or beliefs. This is in accordance with the provisions of article 18 of the International Covenant on Civil and Political Rights.

F. Freedom of association and of peaceful assembly (article 15)

99. The right to freedom of association and peaceful assembly and demonstration are regarded by the Netherlands Government as essential to the functioning of democracy in the Netherlands. If these rights could not be exercised, the participation of citizens in the political decision-making process would be virtually impossible.

100. The right to freedom of association is regulated in the Netherlands in the Constitution (article 8) and applies to everyone, children and adults alike. By law this right may be limited only in the interests of public order.

101. The right of assembly and demonstration is also regulated in the Netherlands in the Constitution (article 9). However, the right is granted subject to the responsibility of everyone under the law. Rules to protect health, in the interests of traffic and to combat or prevent disorders may be laid down by act of Parliament.

G. Protection of privacy (article 16)

102. The right to privacy is regulated in the Netherlands in the Constitution and applies to everyone, children and adults alike. Article 10 of the Constitution provides that everyone has the right to respect for his privacy, without prejudice to restrictions laid done by or pursuant to act of Parliament. The Data Protection Act (Wet persoonsregistraties) contains rules protecting privacy in connection with the recording and provision of personal data. The law also lays down rules governing the entitlement of persons to inspect data recorded about them, know what use is made of the data and correct such data.

103. Article 13 of the Constitution provides that privacy of correspondence may not be violated except, in the cases laid down by act of Parliament, by order of the courts. The privacy of the telephone and telegraph may not be violated except in the cases laid down by act of Parliament and by or with the authorization of those designated for this purpose by act of Parliament.

104. As regards supervision orders, the Netherlands Government would observe that minors who have been placed under supervision in a child-care institution run by the justice authorities are allocated their own lawyer. The lawyer may be present at the hearings and may comment on the reports of experts. As an interested party the minor has the power to appeal against a decision of the juvenile court judge. However, he or she may not exercise this power independently. This must be done by a special representative of the child appointed by the court.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (article 37 (a))

National law

105. The provisions of article 37 (a) covers the treatment of children who have been deprived of their liberty. The legislation and practice in the Netherlands are in keeping with this article. Article 11 of the Constitution provides that everyone has the right to inviolability of his person, without prejudice to restrictions laid down by or pursuant to act of Parliament. As regards capital punishment, the Netherlands Government would point out that article 114 of the Constitution provides that capital punishment may not be imposed.

Conventions

106. The Netherlands is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention has been implemented through the Act to implement the Torture Convention of 29 September 1988 (Stb. 478). The first section of the Act provides that acts as defined in article 1 of the Convention are criminal offences. Since the date on which the Act entered into force in the Netherlands, no prosecution or conviction has occurred in the Netherlands on the basis of offences described in the Act.

107. The offences defined in the Convention have not been incorporated in Dutch law through an alteration to the ordinary criminal law. Instead, it was decided to have a separate act owing to the special nature of this form of mistreatment. In addition, the nature of the obligations resulting from the Convention is not in keeping with the other provisions of the Dutch Criminal Code. For further information concerning the Convention, the Netherlands Government would refer to the first and second reports to the Committee against Torture*.

108. The Netherlands is also a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. As a party to this Convention, the Netherlands is obliged to admit the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to its territory in order to visit places where people have been deprived of their liberty by a government body. This includes institutions for the treatment of people who are subject to hospital orders, child protection institutions, psychiatric clinics or other institutions of a closed nature. A delegation of the CPT visited the Netherlands in the period from 30 August to 8 September 1992. The Netherlands Government worked closely with the delegation before and during the visit. In its report on its visit, the CPT noted that "both the material conditions of detention and the regimes in the prison and youth detention establishments visited were satisfactory, and on occasion were of a very high standard. The CPT's delegation was favourably impressed by the policy of one person per cell applied in the establishments. It should be added that staff and prisoners appeared to be on reasonably good terms."

Juvenile criminal law

109. Under juvenile criminal law, the principal sentences are youth detention or the payment of a fine. In addition, the court may impose an alternative sanction. This is a community service order or the obligation to follow a course of training. Young offenders whose behaviour is disturbed may be admitted to an institution for young people (article 77 (h) of the Criminal

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* The initial report - CAT/C/9/Add.1-3 - was dealt with by the Committee in CAT/C/SR.46, 47, 63 and 64; A/45/44, paras. 435-470; and A/46/46, paras. 154-181. The second report - CAT/C/25/Add.1, 2 and 5 - was dealt with by the Committee in CAT/C/SR.211.

Code). If a juvenile has been admitted to a national institution for the provision of residential childcare, he or she may be placed in an isolation cell for a maximum of four days for the purpose of order and security (article 17 of the Rules of judicial child-care institutions).

110. Juvenile criminal law applies to children under the age of 18. However, a court may direct that adult criminal law is applicable to 16- and 17-year-old defendants. The reason for such a direction may be the gravity of the offence, the personality of the offender or the circumstances in which the offence was committed (article 77 (b) of the Criminal Code). No life sentence may be imposed under juvenile criminal law. Such a sentence may, however, be imposed under adult criminal law. Where this happens, it is nonetheless always possible for such a sentence to be converted in due course into a determinate sentence through the granting of a pardon.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. General introduction to articles 5, 18, paragraphs 1 and 2, and 9

111. Articles 5, 9 and 18 (paragraphs 1 and 2) concern various aspects of the right to family life and the position of members of a family towards one another. These aspects are dealt with together below, as a general introduction to Dutch policy and legislation on these subjects. The articles will be dealt with separately after this introduction.

Family policy in general: respect for the position of parents

112. In the autumn of 1996 the Netherlands Government published a paper on its family policy. The paper describes the role accorded by the Government to the social position and functions of the family in a large number of fields. Together these efforts constitute an implicit policy on the family. The family has a special position in view of its role in the upbringing of children. This is why special attention is paid in policy to creating optimal conditions for the performance of this role. In view of the growing diversity of relationships, concepts such as family and living unit have acquired an increasingly wide meaning in the Netherlands. In keeping with the definition adopted by the National Committee for the Year of the Family, the Netherlands Government has decided to define the family as "every living arrangement consisting of one or more adults responsible for the care and upbringing of one or more children".

113. This definition indicates the key function of the family, namely caring for and raising children. For the purpose of the definition, upbringing means giving a sense of security, safety and well-being, in short parental affection. But it also includes socialization, the transfer of values and standards, provision for health and education, preparation for a position in society and the protection of physical integrity. Upbringing also entails giving children attention, exercising supervision and also, very importantly, allowing the child the freedom to make its own contribution and have its own responsibility. The family is a source of affection and a legal, socio-economic and consumer unit and provides both parents and children with the opportunities for personal development and mutual care.

114. All kinds of living arrangements are now treated as families on a basis of equality with the traditional family (i.e. mother, father and children) and with families consisting of several generations. These other living arrangements include foster families, single-parent families, step-parent families and homosexual/lesbian couples. This does justice to the diversity of forms of cohabitation which now exist in Dutch society. The authorities in the Netherlands do not make any value judgements about the different types of family and forms of cohabitation and the target group is not strictly defined in the policy on the family.

Justification of government involvement

115. Wherever the position of the family is at issue, the main criteria applied by the Netherlands Government are respect for private life, respect for the willingness of people to invest in responsibility and care for one another and respect for the capacity to find solutions independently. Even more than in other fields, developments in the area of the family are regarded as a matter for individuals themselves and as their responsibility. Establishing and preserving a family and raising and providing protection for children are primarily the responsibility of the parents. This requires a major investment by the parents in both personal and material terms. The great personal effort which people are willing to make on behalf of one another is irreplaceable. From the point of view of children's development, it is important that there should be at least one adult who can guarantee such essentials as a sense of security, primary affective ties, safety and the conferral of real responsibility. Children are best off if they grow up within the context of a modern-style family. Where this is not possible for any reason, the closest possible alternative should be sought.

116. Not all parents are able to provide their children with a safe and balanced upbringing. All kinds of serious problems may make it necessary for the authorities to intervene in the family situation in the interests of the child or the parent. The Netherlands Government believes that the prime responsibility of the authorities is to monitor the interests of the person requiring protection. The privacy of the family is of secondary importance in this connection.

117. The intervention of the authorities in family life may be justified on two grounds. First of all, it is essential that children should have a proper upbringing and care since this determines the quality of their life and the continuity and development of society. Investing in the family is therefore tantamount to investing in the future. This common interest is a basis for the involvement of the authorities in the area of family life. A second ground for intervention is the duty of the authorities to care for the weaker members of society and the right of children to safety, health and a good upbringing. The authorities should guarantee the liberties of citizens, for example the right to organize their private life, as they see fit. Yet, the authorities also have a duty to limit these liberties if this is necessary in the interests of those for whom they bear a special responsibility or in the interests of society as a whole. If the key functions of the family are no longer performed and as a result the rights of children are threatened or harmed, it must be possible for the authorities to protect and support the children and to look after their interests. Where a failure to take measures

would result in great inequality in that families and members of families would be deprived of the opportunity for development, the authorities have a responsibility to increase these opportunities. Likewise, where the safety of members of the family is jeopardized by violence, sexual abuse or other problems within the family, counselling or assistance should be provided and, if necessary, sanctions may have to be imposed.

118. The functions of the authorities are:

(a) To create the conditions in which the family itself can perform its key function of raising and caring for children (among other things through the provision of social security);

(b) To support and assist families in performing this key function; this involves the provision of general support and guidance (including the provision of education and health centres) and specific support and guidance (support in bringing up children, special education, social services for children and young people, etc.);

(c) Active involvement where the key function is under serious threat, in particular where the rights and opportunities for development of the child are at risk (including measures by the criminal justice authorities).

The last two of these functions are relevant in cases where families are unable to perform their key function or to do so properly. A network of facilities and activities is necessary in order to provide guidance and support, to arrange for reception of children and to offer an alternative to family life. These facilities and activities should be easily accessible and geared to demand. Through their coherence and, where necessary, cooperation between them, they should guarantee a range of official services that is as comprehensive and effective as possible.

Joint responsibility of parents

119. The great majority of children in the Netherlands are raised within families by their own parent or parents. The traditional family will continue to be the most common unit in the period ahead (see also recent research on this by Rispens, Hermanns and Meeus, 1996). Most young people today still wish to have their own family. Indeed, the family is regarded by a large part of the population as an important part of their life. The majority of people are born into a family, spend their childhood in a family and later found their own family. It is not the external characteristics of family life but the quality of the parent-child relationship in both single-parent and two-parent families which is of crucial importance to people's appreciation of the family as a unit and to the quality of the upbringing. Family life is for the most part regarded positively. Research confirms that people deliberately choose to have children and that having children contributes to the well-being of the parents. In the great majority of families the members of the family are very committed to one another, the discharge of duties and responsibilities is fairly organized and observance of the rules of family life is checked. Communication in most families is characterized by mutual support and openness. The upbringing which children receive nowadays is modern, but not to an excessive extent.

120. There is an increasing tendency for adults in the family to share responsibility for the upbringing of children with outsiders. The greater openness of family systems and structures has increased the influence of third parties and made this influence more visible. The influence of schools, clubs and institutions should not be underestimated. There is a chain of facilities to support the child-rearing process in the various stages of the development of children. In addition to the influence of facilities in the immediate vicinity of the family, the media and commerce appear to be increasing their influence over the process. Since they are now instrumental in bringing up children, they too can be held accountable for their contribution. Examples include the measures to prevent gambling addiction, the legislation restricting alcohol and tobacco advertising aimed at young people and the conclusion of a covenant with the video trade. In all these cases, industry and commerce are expected to act in a responsible manner and thus shoulder part of the responsibility.

B. Parental guidance (article 5)

121. Article 1:247 of the Civil Code defines the role of a father and mother towards their children. They have the duty and the right (in that order) to care for and raise their children. Caring for and raising is deemed to mean above all the care and responsibility for the mental and physical welfare of the child and fostering the development of its personality. As mentioned under article 12, the essence of the parent-child relationship nowadays is a dialogue through which children provide themselves with a structure and become socialized. In raising their children, parents have to make allowance, in a manner consistent with the age and evolving capacities of the children, for their views on matters affecting them and for the needs of children to act and arrange their life as they see fit. This principle is current Dutch law. This rule governing the exercise of authority applies not only to parents but also to guardians and all other persons who care for and raise a minor child without having legal authority over the child (such as foster parents and, for example, staff of institutions where children are looked after).

122. Under article 1:247 of the Civil Code looking after and raising a child is deemed to include responsibility for its mental and physical welfare and promoting the development of its personality. Parental authority is a power which must be exercised solely in the interests of the child. This power diminishes as a child's powers of judgement and its capacity for self-development and self-determination increase. Parental authority is limited by the fundamental and human rights to which a child too is entitled. One of these rights is the right not to be subjected to humiliating treatment. Dutch law does not explicitly prohibit parents from hitting their children, nor does it therefore ban the "salutary tap" or an "admonitory slap". However, the intentional infliction of pain and suffering is naturally prohibited. The castigatio paterna constitutes abuse in the Netherlands too if it is not intended to assist in the upbringing or is out of all proportion to the child's acts. The perpetrators of such abuse may be prosecuted under the criminal law.

123. Article 5 is based on the assumption that the persons involved in looking after and raising a child and other persons who are responsible in this connection for the child may provide direction and guidance in the

exercise by the child of the rights recognized in the Convention. This is not a matter of competing rights of the parents and child but of the power to assist the child in exercising the rights to which he or she is entitled and doing this in a manner consistent with the evolving capacities of the child. As indicated above, this basic principle is current Dutch law.

124. A bill which will become law on 1 January 1998 will make it possible for parental authority to be shared by a parent with someone who is not the parent of the child. However, this will be possible only if the person concerned has a close personal relationship with the child and if the parent and the non-parent have together raised the child for at least a year by the date of the application to the court. The bill also provides that a guardian (i.e. a person who has authority over a child but is not his or her parent) may share the guardianship with a person who has a close personal relationship with the child. Two guardians who exercise custody together in this way have a duty and a right to look after and raise the child.

C. Parental responsibility (article 18, paragraphs 1 and 2)

125. The common responsibility of the two parents to raise their child and to support its development is laid down (in the case of married couples) in article 1:251 of the Civil Code. Under article 1:251, as it will probably come into force on 1 January 1998, this joint responsibility will continue to exist even after the dissolution of the marriage, unless one or both of them request the court otherwise. (The present rule is that common parental responsibilities of the parents continue to exist only when the parents make a joint application to the court to this effect.)

126. Parents who are not and have never been married to each other may jointly exercise their authority over their child if they have registered an intention to this effect in the "Guardianship of Minors Register". Parents must, however, be competent to exercise this authority (e.g. they may not be the subject of a legal restraint order), and they may not have been relieved of or had withdrawn their authority over the child. If only the maternity of the child has been established or if the father and mother are not married to each other and do not jointly exercise authority over the child pursuant to an entry in the Guardianship of Minors Register, the mother will exercise parental authority alone over the child. If, however, the mother was not competent at the time of the birth to have authority over her child (where this happens it is usually because she is still a minor), she obtains parental authority automatically by law if she becomes competent to exercise it. If another person was given authority over the child, the mother may apply to the subdistrict court judge to be given authority over the child. If a third party (i.e. not the father) has been charged with authority over the child, the application of the mother is generally granted. If the father has authority over the child, the mother's application is granted only if the subdistrict court judge considers this to be desirable in the interests of the child.

127. After the death of a parent, the other parent exercises parental authority over the child by law provided that he or she exercised this authority at the time of the death of the other parent. If the deceased parent exercised parental authority alone, the surviving parent may apply to

the court to be granted parental authority. Such an application is refused only if there is a justified fear that the interests of the child would be neglected if the application were to be granted. The same applies if the deceased parent had appointed a third party as legal guardian of the child by will and also if the appointed guardian has embarked upon his or her duties, provided that the application is made within one year of the start of the guardianship. It follows that Dutch law gives clear priority to the exercise of the authority by a parent instead of by a third party. The principal that both parents have common responsibilities for their child applies in particular to situations in which the family is complete. In other situations, such as divorce, the rule of continued common responsibility also takes precedence. Although the Dutch text does not state exclusively that the primary concern of both parents is the interests of their child, this follows indirectly from the wording of (above all) article 247, paragraph 1, of the Civil Code (the duty and the right) and paragraph 2 of that article: "Raising and upbringing is deemed to include care and responsibility for the mental and physical well-being of the child and fostering the development of its personality." Article 247 also applies to legal guardians and other persons who have authority over the child (e.g. foster parents and a group leader in an institution where the child is staying).

128. Article 1, paragraph 2, contains obligations to guarantee and promote the application of the rights contained in the Convention. The Netherlands already has many institutions, facilities and services, both private and public, of the kind referred to in this paragraph. Examples are the child-care and protection boards, the facilities referred to in the schedule to the Youth Services Act (in particular the community-based and semi-residential facilities) and the facilities for youth work and the reception of children (Social Welfare Act and the Child-care Incentive Scheme 1991-1993, Government Gazette 1991, 115). One aspect of prevention policy is that projects and experiments are funded with a view to developing networks among those concerned in order to avoid problems which might otherwise mean that young persons become reliant on youth services or more intense forms of youth service. Under this legislation the provinces and municipalities have a major responsibility for coordinating supply and demand in the area of youth services.

129. In addition, paragraph 2 of article 18 provides that for the purpose of guaranteeing the rights in the Convention the State must provide assistance to parents in the performance of their child-rearing activities. As part of prevention policy, projects and facilities designed to assist in child-rearing such as establishments for the provision of information about play and general education are developed and encouraged. Child-care services and facilities are among the provisions made for the children of working parents as referred to in paragraph 3. Childcare is dealt with below in the notes on article 18, paragraph 3.

D. Separation from parents (article 9)

130. A child may be separated from its parents against their will only where the court decides that this is in the interests of the child. This is

possible under Dutch law as the result of the making of a child protection order, in other words if the interests of the child are seriously prejudiced and also where one of the parents requests sole custody after a divorce.

131. Dutch law provides for the parents and the child to take part in the relevant procedure. A child may inform the court of its views if it is aged 12 or over. Children under this age may be heard by the court. If a child under 12 asks to be heard but is not, the court must explain its reasons delivering its decision.

132. As regards paragraph 3, it should be noted that the child is entitled to have contact after the divorce with the parent who has not been granted parental authority. The court may deprive this parent of access only if:

(a) Access would seriously prejudice the mental or physical welfare of the child;

(b) The parent is deemed manifestly unsuitable or manifestly unable to handle access;

(c) A child aged 12 or over has indicated during its hearing by the court that it has serious objections to contact with this parent and the court takes these objections seriously;

(d) Access would in some other way be contrary to important interests of the child.

133. A child aged 12 and over - or a child under this age if it is able to form a reasonable judgement of its own best interests - may apply to the court to be granted contact with the parent who does not exercise parental authority. Such a child may also ask the court to direct that the parent not exercising parental authority be kept informed about the child or be given a say in major decisions concerning the child's upbringing.

Decisions in the context of aliens policy

134. Child protection measures. Under aliens policy, the right of a child and/or one of its parents to remain in the Netherlands may end if the conditions for residence are no longer satisfied. It frequently happens that where parents divorce one of them may no longer remain in the Netherlands. In such cases it is necessary to determine whether a child born to the couple may remain in the Netherlands or must return with the parents (or one of them) to the country of origin. A similar situation arises where a child is born out of wedlock and the parents subsequently cease cohabiting. Depending on the personal circumstances, it is necessary to assess in each case whether the termination of the right of residence of one or both parents must also result in termination of the child's residence and vice versa. When such decisions are taken, the Netherlands observes the international obligations under article 8 of the European Convention on Human Rights. Children aged 12 and over may be eligible to remain in the Netherlands independently if the family ties with their parents have been broken. In the case of children under the age of 12, it must be assessed in each individual case whether it would be in the interests of the child to remain in the Netherlands or to go abroad.

135. Expulsion. The general policy is that if a family has no right - or ceases to have a right - to reside in the Netherlands and should therefore leave the country, the members of the family are in principle expelled together.

E. Family reunification (article 10)

136. Paragraph 1 of article 10 is implemented in chapter II, part A (entry) and chapter IV (objection and appeal) of the Aliens Act (Stb. 1965, 40) and, in more detail, in the Aliens Decree (Stb. 1966, 387), the Aliens Regulations (Decision of 22 September 1996, Government Gazette 188) and the Aliens Circular 1994. Applications for children to enter the Netherlands for the purpose of family reunification are assessed by reference to the policy set out in chapter B 1, B 2 and B 3 (foster children) of the Aliens Circular 1994. The principal rule is that applications abroad must be made to a Netherlands embassy or consulate. Application must be made for a provisional residence permit. Factors taken into account when deciding on an application are whether the child is under the age of 18, whether it is actually part of the family of the relative in the Netherlands, whether the relative in the Netherlands has sufficient resources and accommodation, and whether there is no "danger to public order".

137. Applications for entry to the Netherlands from abroad (provisional residence permit) are generally decided within two to three months. The statutory period within which a decision on an application for a residence permit must be taken is six months. Applications for children to enter the Netherlands in order to live with their parents are always assessed by reference to article 8 of the European Convention on Human Rights. The rules described above ensure that the policy on family reunification is sympathetic and humane. Paragraph 2 of article 10 is intended to guarantee contact between the child and its parents where the latter live in a different country. If a child wishes to visit his or her parents in the Netherlands, application may be made for a visa for a family visit. Article 2, paragraph 4, of the Constitution guarantees that a child may leave the Netherlands with a view to family reunification with parents who live elsewhere.

F. Recovery of maintenance for the child (article 27, paragraph 4)

138. A parent or step-parent who fails to fulfil his maintenance obligation may be ordered by the court, at the request of the other parent or of the legal guardian, to pay maintenance (article 1:406 Civil Code). The court fixes the amount of the maintenance. This rule applies both during a marriage and after the divorce of a married couple or separation of an unmarried couple. The child itself cannot take legal action to enforce the maintenance obligation of its parents. However, a special representative appointed by the court under article 1:250 of the Civil Code may take proceedings on behalf of the child to obtain maintenance on its behalf. Assistance provided under the new National Assistance Act (see the notes on the policy with regard to people in receipt of minimum incomes/policy on poverty, at article 27, paragraphs 1-3) may be recovered from the parent obliged to support the child (the maximum that can be recovered is the amount payable by the parent concerned as maintenance).

139. A maintenance payment fixed by the court is paid for the benefit of the child to the parent who is raising and caring for the child or to the legal guardian. The person entitled to receive the maintenance may request the National Agency for the Collection of Maintenance Payments (LBIO) to collect maintenance if he or she can show that in the six months preceding the request to the agency, the person obliged to pay maintenance has failed to make at least one periodic payment. If the Agency agrees to collect the payment, it is also entitled to take enforcement measures. The Agency continues to collect the maintenance until payments have been made regularly for at least half a year.

140. The Netherlands is a party to various conventions on maintenance. Two conventions that are of particular importance to the recovery abroad of maintenance are the Convention on the Recovery Abroad of Maintenance, concluded in New York on 20 June 1956, and the Convention between the Member States of the European Communities on the Simplification of Procedures for the Recovery of Maintenance Payments, concluded in Rome on 6 November 1990.

G. Alternative special care and protection (article 20)

1. General - Available facilities

141. Young people develop in a variety of ways and areas: family, school, work and leisure. A range of institutions and facilities (see following chart) covering one or more of these areas cater to the needs of young people at different ages and stages of development. The ordinary facilities are intended for all young people (or the people raising them); specific facilities or arrangements are geared to specific groups of young people or to tackling specific problems.

Institutions providing facilities to children

	Ordinary facilities	**Specific facilities**
Family	- youth counselling centre - general practitioner - other health-care facilities (municipal health service, youth health care - department for the early recognition of behavioural disturbances - health information and education service) - support with upbringing - reception of children - pre-school upbringing - nursery playschool - neighbourhood network	- youth services - mental health care for young people - youth protection (child-care and protection boards, family guardianship, youth custodial institutions) - child abuse reporting centre - general social work

School	- primary school/ secondary education/secondary vocational education/higher vocational education/university - school counselling service - vocational advice - tutoring - student councils/parent councils - school health policy	- special education - measures to combat disadvantage and programmes to encourage language proficiency (immigrant parents and children) - practical education/aid structure - RACE management committee - measures to cope with truancy
Work	- job finding services/manpower services - employers - trade unions (and youth departments of unions) - apprenticeship system	- youth work guarantee plan - ongoing guidance (e.g. through New Prospects/T-teams)
Neighbourhood/leisure	- sports club/ neighbourhood sport - club and community centre - library and games library - youth organizations - youth panels - youth information centres - housing associations - police/wardens	- children's helpline - children's law centre - alcohol and drugs clinic - facilities for homeless young people - juvenile courts and prosecutors with special responsibility for youth cases - HALT offices (to deal with children committing vandalism) - youth rehabilitation

2. Placement in a foster family

142. The Youth Services Act provides for the possibility of placing children in a foster family. Placements are arranged through foster care agencies. These are regional organizations which supervise the quality of foster care and are responsible for compiling, using and managing the list of foster families and homes. Since 1995 measures have been taken to strengthen and improve the quality of foster care facilities. A foster care innovation programme has been drawn up during the structured administrative consultations between the central Government and the provinces. The programme, which can count on sufficient support in the field, involves processes of restructuring, development of methods, training of staff and the selection, preparation and

training of foster parents. The screening of foster parents is arranged by the regional organizations for foster care. These have professional staff with specific expertise in the recruitment, selection and preparation of foster families and the provision of information. A distinction should be made between normal foster care and therapeutic fostering in a family. The latter form of fostering is arranged by institutions specialized in this field.

143. A certificate of no objection in respect of the foster parents must have been issued by the child-care and protection board if the family in question is to be eligible as a foster home. The basic principle applied by the board in screening foster parents is that every child has a fundamental right to a healthy and balanced development and to become independent in due course. The board applies the criteria of the Convention in this connection.

144. The suitability of the foster parents to look after a given child is then assessed by the foster care agency. The care and upbringing in the foster family is arranged on the basis of a fostering contract in accordance with a model approved by the State Secretaries for Health, Welfare and Sport and for Justice. The basic criterion is that there should not be more than three foster children to one family. This maximum may be exceeded if the placing authority can show that this is safe.

145. The relevant agency or institution is responsible for drawing up a plan for the provision of help. This plan should take account of the problems and behavioural disturbances of the young person and should in any event contain a description of the proposed assistance. If the assistance is to last longer than six weeks, the plan should fulfil a number of specific conditions. These include the proposed involvement of experts, the moments of evaluation, the contacts to be maintained with the family of the young person, and the role of the foster parents in the process of providing help.

146. A foster care placement may be made as part of a voluntary arrangement - without the intervention of the courts and with the consent of the parents - or it may be made by order of the court. In the latter case, the plan for assistance should also cover contacts with the justice authorities and institutions which have a statutory function in this connection. The plan should be formulated in consultation with the young person if he or she has attained the age of 12 and, in the case of a younger child, if he or she is able to comprehend what is going on. The parents too are involved in the preparation of the plan, unless there is an acute emergency or if such consultation would harm the young person. The conditions for the quality safeguards for family fostering are included in the Youth Services (Quality Rules) Decree of 6 September 1990, which implements the Youth Services Act.

Adoption

147. Adoption has been possible by law in the Netherlands since November 1956. Under Dutch law adoption involves a complete breaking of the legal ties with the child's original parents. Adoption is preceded by a procedure for the placement of the child concerned in the adoptive foster family. The child-care and protection board institutes a screening process to determine the suitability of the prospective foster parents. Placement of a

child under the age of six months without the prior consent of the child-care and protection board is not permitted and is a criminal offence.

148. Approximately 100 children become available for adoption in the Netherlands each year as a result of being "freed" by their own parents for adoption. It follows that in recent years adoption in the Netherlands has related almost exclusively to foreign children. The placement of children in this category in Dutch families has been regulated since 15 July 1989 by the Placement of Foreign Foster Children Act (Wet opneming buitenlandse pleegkinderen). The adoptive parents are required to obtain beforehand a certificate of suitability from the State Secretary for Justice (consent in principle). The child-care and protection board advises the State Secretary on the suitability of the prospective adoptive parents after carrying out a screening procedure.

149. Placement of a foreign foster child with a view to adoption is permitted only if the arrangements are made through an agency (licence holder) recognised by the State Secretary for Justice under the Placement of Foreign Foster Children Act. Rules governing the quality of licence holders have been made under the Act. They are required to possess expertise in the legal, financial and social aspects of their work. An amendment of 30 March 1995 to the Placement of Foreign Foster Children Act has tightened up the rules on the obligatory use of recognized agencies for the placement of foreign foster children for adoption. Parents wishing to adopt should first attend a course on the special problems of adopting foreign foster children given by an organization equipped for this purpose and designated by the State Secretary for Justice.

150. The Netherlands has signed The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. An act to approve the Convention and an act to implement the Convention are pending before the Lower House of Parliament. (Adoption is discussed further under article 21.)

3. Placement in child-care institutions

Homes and institutions

151. The regional authorities (the provinces) are in principle responsible for the provision and upkeep of (non-custodial) residential facilities for young people (homes and institutions) and for their quantity and quality. The central government authorities can exercise a measure of control through their subsidy policy. The Youth Services Act provides that central Government has the power to impose rules governing quality. The conditions for the provision of assistance are contained in the Act itself. More detailed rules regulating the quality of the care in homes and institutions have been laid down by order in council made under the Act.

152. A small number of the non-penal residential facilities have national status. The responsibility for these facilities rests with the central Government (Ministry of Health, Welfare and Sport). All custodial facilities for child protection under the justice system have national status and come under the responsibility of the Minister of Justice.

Quality requirements

153. As mentioned above, the quality requirements for all homes and institutions are regulated under the Youth Services Act. Under the Act they are required for example to provide spiritual counselling, to provide educational facilities for inmates and to provide treatment in accordance with a plan drawn up beforehand.

National residential facilities for young people

154. Agreement on a policy framework for the provisions of these facilities was reached in mid-1995. This sets out a policy for the development of facilities that can provide good quality assistance to young people, including those with serious and complex problems. The aim is to create integrated facilities that can provide a comprehensive upbringing and offer the opportunity of work and recreation.

The youth custodial institutions

155. The policy in these institutions - in particular those intended for the execution of custodial sentences under juvenile criminal law - is to bring supply more into line with demand in both a quantitative and a qualitative sense. A framework was established for these institutions in 1994 under which they are placed within the youth care and criminal law system. A committee established by the Ministry of Education, Culture and Science and the Ministry of Justice made recommendations in 1996 for improvement of the place and design of education in these establishments. The proposals have been taken into account in a quality improvement programme which is being carried out by the two ministries.

H. Adoption (article 21)

156. As already mentioned, child adoption exists in the Netherlands. Under article 1:227, paragraph 2, of the Civil Code the interests of the child are the decisive criterion. The Placement of Foreign Foster Children Act contains the safeguards that ensure that adoption meets the criteria of this article. Reference should be made to article 8 of the Act in respect of Intercountry Adoption, under which the authorities and the parents must have consented to the departure of the child and it must have been shown that the parents have expressly waived their rights to the child. The courts too have long recognized that adoption is an ultimate remedy. The provision in paragraph (c) means that as a rule the standard applied in the Netherlands is higher and certainly not lower, partly because of the screening by the child-care and protection board and also because of the information provided under section 5 of the Placement of Foreign Foster Children Act.

157. The basic principle is that adoption of children abroad is possible only through the intermediary of adoption agencies recognized by the Ministry of Justice. If prospective adopters do not use these agencies and instead make the arrangements themselves, the agencies through which the original copy of the family report has to be obtained have a duty to check the liability and good faith of the contacts specified by the adopters. The charge made by these contacts may not be excessively high.

I. Illicit transfer and non-return (article 11)

158. Under paragraph 1 of article 11 of the Convention on the Rights of the Child the States parties are required to take measures to combat the illicit transfer and non-return of children abroad. To this end, the States Parties are required under paragraph 2 to promote the conclusion of bilateral or multilateral agreements or accession to existing agreements. The agreements of primary importance in the context of Western countries are the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, concluded in Luxembourg on 20 May 1980 (Trb. 1980, 134, Dutch translation in Trb. 1981, 10) and the Convention on the Civil Aspects of International Child Abduction, concluded in The Hague on 25 October 1980 (text and Dutch translation in Trb. 1987, 139). Dutch law is in keeping with article 11 since these conventions came into force for the Netherlands on 1 September 1990. The Act implementing the conventions (Act of 2 May 1990, Stb. 1990, 202) provides for the possibility that the regime of The Hague Convention may also apply to non-treaty situations.

J. Protection from abuse and neglect (article 19)

Reporting and counselling centre

159. Child abuse has been a subject that has had the continuing attention of successive Governments since the 1970s. Originally, child abuse counsellors were appointed to the child-care and protection boards organized on a district-by-district basis. The counsellors operated with a small office. By 1976 there were 10 of these offices in the Netherlands. Subsequent structural changes to the organization of the youth protection and social work system under the justice authorities have resulted in new forms of organization. A national foundation of child abuse counsellors was established in 1985. The individual offices joined this foundation.

160. The increase in the number of reports of child abuse after 1985 prompted a review of the way in which this problem was tackled. It was noted that early identification of abuse was essential in order to prevent and combat such abuse. The question arose as to whether reports of child abuse were reaching the right authorities and thus enabling adequate action to be taken. As a result of urging by the Lower House of Parliament, ways were sought after 1990 of establishing a single, easily identifiable reporting centre. In December 1994 a working group was set up by the State Secretaries for Justice and for Health, Welfare and Sport with a view to developing a centre and helpline for reports of suspected child abuse at provincial or regional level. In its first interim report in March 1995 the working group recommended the establishment of a number of model projects at provincial level. The basic idea was to organize an easy-to-find and highly accessible reporting and counselling centre. Four model projects were started early in 1996 in the Amsterdam, Amstelland and Meerlanden region, the south-east region of Noord-Brabant, and the provinces of Friesland and Drenthe.

161. Each of these projects is based on a model incorporating 10 functions:

(a) Receiving reports;

(b) Registration of reports;

(c) Counselling and consultation;

(d) Assessment of investigations;

(e) Referral and transfer (to social services);

(f) Feedback to the reporters;

(g) Coordination of the help to be provided;

(h) Evaluation of the action taken by the centre;

(i) Identification;

(j) Participation in development of regional policy.

The staff of the model projects generally cooperate with the office of the child abuse counsellor in the region, the child-care and protection board and the police's juvenile and vice squads. It is expected that the functional model described above will be introduced throughout the Netherlands.

162. Procedure. To ensure a sound procedure, it is necessary that a medical doctor is always available. The emphasis should always be upon making matters as easy as possible for the child. This means that:

(a) The reporting centre should be easy to find for the child and there should be thorough consideration of whether the child runs any immediate risk;

(b) The "language" of the child should be understood and spoken, particular attention being paid to possible loyalty problems (in particular in the case of sexual abuse within families).

163. The staff check that assistance is provided immediately and/or that the child-care and protection board takes action. At the same time they consider whether criminal proceedings should be brought, taking particular account of the interests of the child.

164. To assist the offices of the child abuse counsellors written guidelines were issued by the State Secretaries for Justice and for Health, Welfare and Sport in August 1996 indicating how they should deal with:

(a) The registration of sensitive particulars;

(b) The provision of particulars about the young person to that person or his or her parents;

(c) The provision of particulars to third parties;

(d) The use of a complaints procedure;

(e) The duty of professional secrecy and circumstances in which it is permissible to disregard that duty.

165. A study of the practical aspects of the four model projects is being made in order to support and monitor the further development of the content and organization of the projects. The study will be completed in June 1997 with a comprehensive final report. An initial interim review has already been published by the working group. The findings of this first review are discussed below.

166. Interim review of the model projects. The model projects are not all proceeding without problems. When the new protocol was ready, it transpired that differing views on how to tackle anonymity, the rights of parents to inspect particulars and the periods within which reports should be dealt with gave rise to a good many objections. This has occasionally resulted in delays. Three months after the model project in Noord-Brabant became operational, the participants reported that the problems of cooperation were so great that the project could not be continued. Nonetheless, a number of offices of child abuse counsellors which are not registered as model projects have adopted the approach and procedures of the projects. There is growing confidence that the easily identifiable reporting centres for child abuse will materialize.

167. The whole of 1997 will be used to continue the development of the model projects. The working party is expected to publish a second interim report in 1996. There is still no consensus on how these reporting centres should in due course link up organizationally with the youth services sector. For the time being there is a preference for a separate "means of access" (i.e. a separate logo and possibly a free national helpline) for people seeking advice on or wishing to report child abuse. Where child abuse is discovered, the diagnosis and assessment of the need for help will be made when the case is first passed to the youth services sector, whether or not in cooperation with staff/doctors of the advice and reporting centres.

Reporting child abuse

168. The number of reports of child abuse has risen by 70 per cent since 1970 to almost 15,000 in 1995. Each year the number of reports climbs by around 1,000, mainly due to the increased willingness of members of the public to report cases to the Dutch authorities. The working group on the child abuse reporting centre published a report in June 1996 containing the findings of research into the wishes and experience of the population regarding the reporting of suspicions of child abuse. The willingness to report suspicions was above 50 per cent. As a rule, the respondents indicated that they would prefer to make such reports to the office of a child abuse counsellor or, equally, to the police.

Abolition of National Child Abuse Counselling Centre

169. As mentioned previously, the Netherlands is engaged in reorganizing the social services for children and young people. This reorganization also affects the 15 child abuse counselling centres which are being integrated into the regional youth care system as a first step towards the introduction of youth care centres. The umbrella foundation for the child abuse counselling centres was abolished in June 1996. As the central registration and development function of the foundation was essential to the functioning of the child abuse counselling centres, it has been transferred to the Netherlands Institute for Health and Social Services, which has a general function in contributing to the development of the care and social welfare sector in the Netherlands.

Foundation for the Prevention of Child Abuse

170. Other activities connected with the prevention of child abuse will be coordinated through a review of the duties of the Foundation for the Prevention of Child Abuse. Talks were held in mid-1996 between the Netherlands Government and the relevant organizations to transfer duties of the Foundation which overlap with those of the former National Child Abuse Counselling Centre to the Netherlands Institute for Health and Social Services, thereby integrating them in 1997. The Foundation's function of mobilizing public opinion (through publicity campaigns, etc.) will be slotted into the policy on preventive action in relation to youth care.

Other developments

171. Besides the matters referred to above, which are closely related to the reorganization of youth care, a number of other developments should be mentioned. The Wilhelmina Children's Hospital in Utrecht has carried out a scientific study of psychosocial diagnostics in cases involving suspicions of sexual abuse of children. The findings had not been published at the time this report was written.

172. Issues concerning the reporting of cases of sexual abuse are highly topical at present, partly owing to the publicity in the spring of 1996 surrounding several cases of child abuse in secondary schools. Consultations are being held between the Ministry of Health, Welfare and Sport, the Ministry of Justice and the Ministry of Education, Culture and Science and the inspectorates regarding the possible coordination of existing guidelines and legislation on the reporting of abuse to the relevant inspectorates.

K. Periodic review of placement (article 25)

173. Children may be placed in a home on a voluntary basis (i.e. with the consent of the parents). This is known as a "voluntary placement". But children may also be placed by order of the court. This is then known as a "custodial placement".

174. The obligation to conduct a periodic review of the treatment of a child who has been placed outside the family, either in an institution or home or in

a foster family, is laid down by law in the Youth Services Act, section 29. This applies both to voluntary placements and custodial placements.

Voluntary placement

175. Under the Act the authority making the placement fixes a period during which the assistance is considered necessary. This period may not exceed six months. The facility (foster care or home) itself fixes the times of review. The interim reviews are monitored by the Youth Services and Youth Protection Inspectorate. When the reviews are made reference should be made to the treatment plan drawn up previously. The report of the Inspectorate shows that the plans were not always taken into account in the reviews conducted in 1995. The facilities concerned have been reminded that this is necessary. When a review is carried out, the necessity of assistance is reappraised upon the expiry of the period specified at the start of the placement.

176. In its 1995 annual report the Youth Services and Youth Protection Inspectorate made the following recommendations (partly in the light of the Convention on the Rights of the Child) to the authorities making placements:

(a) Greater attention should be paid to the policy on reviews and appraisals and reappraisals of the necessity of assistance;

(b) More should be done to involve parents and young people in the provision of assistance;

(c) More attention should be paid to counselling parents during the placement of their child.

Custodial placement (by court order)

177. Placement by court order may occur where the parents are relieved of or have withdrawn from them parental authority or where a family supervision order is made and the parental rights are limited by powers granted to a family supervisor appointed for this purpose by the court. A placement qualifies as a custodial placement if it is based on a decision of a guardianship institution which is charged with authority after the parents have been relieved of or have withdrawn their parental authority or, in the case of a family supervision order, where the court has authorized the family supervisor to make such a placement.

178. Since 1995 the guardianship and family supervision institutions responsible for implementing guardianship and family supervision have operated on the basis of protocol books adopted by them (Guardianship Protocol Book and Family Supervision Book, adopted by the Association of Directors of Guardianship and Family Supervision Institutions, Vedivo, Utrecht, November 1994). These protocols contain explicit instructions on periodic (half-yearly) reviews. These instructions include:

(a) An obligation to prepare a review report on the basis of questions listed in the review form;

(b) The use of a survey report prepared by third parties;

(c) The making of a reasoned proposal for the treatment plan for the next six months or alterations to the plan;

(d) Discussion of the review results with the young person;

(e) Provision of information to parents, those with responsibility for the child's upbringing, and the child itself concerning the decisions taken and the plans for the coming period.

179. If special events occur which occasion a review of the treatment plan, an interim review will be carried out during the six month period.

VI. BASIC HEALTH AND WELFARE

A. Survival and development (article 6, paragraph 2)

180. The number of young people in the Netherlands is declining. In recent years this process of "dejuvenation" has taken two forms: first, the proportion of young people in the total population has fallen and, second, the proportion of elderly people has risen. Various studies have shown that the development of the great majority of young people in the Netherlands passes off very well. They grow up without noticeable difficulties and become independent, socially involved adults who participate to the full in society. Young people are increasingly well informed about numerous matters. As a result they are becoming more and more assertive as fellow citizens. This is true both in education and in certain parts of the labour market. 1996 was the first year in which more girls than boys registered to enter university and college.

181. Although the great majority of young people develop well and are able to cope with the problems and risks which they encounter, a small proportion of young people and/or the people responsible for their upbringing require support in order to overcome these problems. In most cases a form of temporary support or extra care is sufficient. However, various problems seem to be on the increase. This is due partly to a greater willingness to report problems, for example the willingness to report child abuse, and partly to improved forms of registration and identification.

182. The problems are not equally divided among young people. Whether problems occur depends on the extent to which risk factors are present and protective factors absent. Factors which increase the risk of problems for young people include

(a) Low educational level and income of the parents;

(b) Difference between the cultural background of the community in which the child is raised and Dutch society as a whole;

(c) Violence within the family;

(d) Isolation of the family;

(e) Parents' lack of child-rearing skills;

(f) A negative self-image;

(g) Young person's lack of social skills;

(h) Discrimination and segregation.

183. Protective factors include:

(a) A properly functioning family;

(b) Possession of adequate social skills;

(c) Social networks/support in the community.

184. Young people who are exposed to the risk factors described above tend to be found mainly in the socially and economically vulnerable groups of the population. They include many young people one or both of whose parents were born abroad. They are a group which is particularly at risk. Many children from immigrant backgrounds lag behind in language skills when they enter primary school and find it hard to catch up throughout their school career. In the labour market, non-indigenous young people are often at a disadvantage. Ethnic origin is not of itself a factor in causing problems. However, ethnic origin coupled with various other characteristics can increase the likelihood that children will have problems and drop out of society: examples are insufficient command of the Dutch language, a relatively low educational level and, in consequence, few prospects in society.

185. To tackle these problems - of both indigenous and non-indigenous young people - it is necessary to have a policy aimed both at providing an effective solution to existing problems and at early identification and prevention of new problems, encouraging young people and those who look after them to be self-reliant and to develop their potential, and at strengthening the social position of young people.

Key aspects of policy

186. Demand-driven. The facilities in education, youth work, sport, health care and manpower services and the specific facilities designed to tackle and cure individual problems must enable children and the people responsible for their upbringing to participate actively in, preferably, all aspects of society. These facilities gear supply to demand and should involve the target group itself in decisions on this. The choice of facilities is therefore demand-driven. Account is taken of the needs of vulnerable groups of young people by adding extra elements to the normal range of services.

187. Adequate supply. If young people are in - or likely to get into - difficulties, there must be sufficient facilities available to help them. This must be done at the earliest possible stage so that a minimum of assistance is required. The help must be provided in their neighbourhood, as close as possible to where the young people live. An adequate supply is achieved not only by expanding the capacity of the treatment sector; the scope

for early identification and reception in other areas of society too needs to be strengthened. The efforts to widen the care provided in education are in keeping with this objective.

188. Access to care. If young people or the people responsible for their upbringing require care, this should be available to a sufficient extent and should be easy to find and very accessible. Ideally there should be a single coordination centre for youth care in each region, from which care is allocated on the basis of a careful assessment of the needs. This centre is the front for a network of institutions which cooperate together and undertake to provide adequate care to the young people assigned to them. There is a national system of admission to custodial youth institutions.

189. Emphasis on prevention. Ideally, indications that young people are getting into difficulties should be picked up at an early stage and measures taken to tackle the problems within the existing network of facilities in order to avoid a greater call on these facilities at a later stage. Local authorities and institutions which are active on behalf of young people must naturally be equipped in all respects for their duties in the area of preventive youth care.

190. Special focus on vulnerable young people. The authorities are involved because they have a duty to care for the weaker members of society and because of the rights of children, as laid down in the Constitution and international conventions, to safety, health, education and a good upbringing. The authorities owe a particular duty to children in disadvantaged situations and children who, for any reason, have to grow up in threatening circumstances. The Netherlands has an active and effective policy of combating educational disadvantage and promoting the integration into society of young people who might otherwise reject it.

191. Young people with multiple problems. More and more young people in difficulties face multiple problems. If the problems of this group are to be tackled effectively, cooperation is essential. The facilities must be better able to respond to this situation in the future.

192. Coherence and cooperation. To prevent and tackle youth problems it is necessary to have a coherent body of activities, ordinary and specific facilities and ordinary and specific policy. Ideally, there should be a coherent and properly coordinated network of services, each of which has its own clearly defined duties and terms of reference. If each system, each facility and each tier of government confines itself to its own core responsibilities, they will fail to tackle the problems successfully. Strengthening the chain of youth services means in particular that where the links in the chain are joined, for example youth care and education, or youth care and the labour market, the responsibilities of the sectors concerned should also be linked.

193. Quality. Young people and the persons responsible for their upbringing must be offered a quality product in both the ordinary and the special facilities. And guarantees of this quality must be given. One of the guarantees is the quality of the management in institutions, which should be able to strike a balance between the needs and interests of clients/users and

the interests and potential of the staff. Young people and those responsible for them are increasingly regarded as clients able to represent their own interests and those dealing with them prefer to work on the basis of clear agreements (for example a student charter in education and treatment contracts in the care sector). And there are clear arrangements for lodging complaints. Confidants and complaints committees in the various organisations and systems used by young people will have to be properly accessible and take complaints seriously.

194. Multicultural. Ordinary and special facilities must be properly accessible and recognizable to young people from immigrant backgrounds and the people responsible for their upbringing. Youth care is at present insufficiently equipped to deal with the specific problems of non-indigenous young people. The composition of the staff of such institutions and of the management should reflect the composition of society. Professional social workers from immigrant backgrounds have an important role to play both as role models and as bridges between the communities. The proportion of social workers with such backgrounds can be monitored and regulated under the Fair Employment of Ethnic Minorities Act (Wet bevordering evenredige arbeidsdeelname allochtonen). It is important that methods are developed for the adequate treatment of the new category of people seeking help and that a range of effective services is provided. Measures to promote expertise play an important role in this connection. A policy of this kind has already been initiated in the youth protection sector, in conjunction with the national umbrella organizations. The establishment of contacts with organizations representing ethnic minorities, the development of personnel policy and the promotion of expertise are important elements of this policy.

195. Cooperation between authorities. The division of management responsibilities means that good cooperation is essential between municipalities, provinces and central government authorities on the one hand and between authorities and facilities on the other. The aim is that not only should the division of responsibilities be clear but the actors should also possess a range of instruments enabling them to perform their management duties properly. For example there must be a good supply of information and a tested planning and control cycle. Policy should be developed interactively and this policy framework should be an element, i.e. a link in the planning and control cycle.

196. The desired situation described above is in many respects still no more than an ideal. However, the coherence of the activities and the cooperation between the different tiers of administration in the care system have certainly improved in recent years. Numerous initiatives have been taken to upgrade the help and care provided. And a start has been made on increasing the capacity of the youth care services, both in the youth custodial institutions and the social services for children and young people. Steps have been taken to bring about an effective reduction in juvenile crime. Prevention of youth problems has been given a higher priority on the political agenda. And more attention is now paid to the prospects and position of young people from immigrant backgrounds in the social services, education and pre-school education.

B. Disabled children (article 23)

1. General

197. Dutch policy on disabled children is, generally speaking, much the same as for adults with a disability. In other words, specific facilities are provided or measures taken for disabled children only when this is necessary. Examples are early recognition of development disorders, out-patient care and counselling, child day care centres, special education and orthopaedic centres for young people with slight mental handicaps.

198. As in the case of youth policy, two parties are involved in the establishment of policy on the handicapped: the government authorities (central, provincial and municipal) and private institutions (i.e. organizations of citizens). The Government lays down rules, provides the money, makes the plans, and supervises, advises and coordinates. The private institutions do the work and check the quality. Private institutions are either associations or foundations and are non-profit-making. The aim of Dutch policy on the disabled is to ensure that people with a handicap can participate in society as fully as anyone else. Two of the central planks of this policy are therefore the need to promote the participation and rights of the disabled. In the case of children the aim of the policy is to enable the disabled to attend ordinary schools wherever possible and to take part in ordinary play and sport.

199. The growing assertiveness of young people means that groups of young people are endeavouring to overcome their own problems and thus release themselves from their disadvantaged position. This applies, for example, to the category of physically handicapped young people. The Netherlands Government subsidizes the following institutions for this purpose:, the youth section of the Dutch Council for the Disabled, the Organization for Partially Hearing Young People, and the Youth Committee of the Council for the Deaf.

200. Below is a description of the types of facility which the Netherlands provides for children with a physical or mental handicap. This is followed by an examination of the problem connected with these facilities and the proposed solutions.

2. Provisions for mentally handicapped children

201. The following facilities are available for mentally handicapped children:

(a) 123 institutions: general institutions for the mentally handicapped provide long-term day and night care. The services provided include nursing, treatment and education. In addition, day nursing is provided on an out-patient basis for people living at home. A start has also been made with an "outreach arrangement" in which facilities are provided at home. There are separate institutions for people with more than one handicap and for young people with slight mental handicap; the residents of these institutions are occupied outside the institution during the day, usually in some form of education;

(b) 21 hostels: these provide accommodation and counselling for children. Here too the residents are occupied outside the hostel during the day;

(c) 6 short-stay accommodation units: these provide temporary 24-hour service to support families;

(d) 12 guest houses: these houses provide support to families for a maximum of seven days a month;

(e) 107 day centres for children: these organize activities for children designed to encourage their development and their participation in society;

(f) 42 social service units for the mentally handicapped: these are organizations which provide community services for mentally handicapped people and their families. The service consists of the provision of information and advice about upbringing, education, reception and accommodation facilities and specific counselling. These social services provide, among other things, specialized social work and practical pedagogic guidance for families. The latter service is intended above all for children up to around the age of six years;

(g) 20 specialized centres: these organizations encourage participation in worthwhile activities and organize social and cultural activities, sports and opportunities for play and holiday;

(h) early aid: a network of a multidisciplinary nature for the early identification of behavioural disorders in children under the age of four years.

3. Facilities for the physically handicapped

202. The Netherlands has the following facilities for physically handicapped children:

(a) Fourteen long-accommodation units: homes which provide accommodation and counselling. The residents are occupied outside the institution during the day. The majority of residents have a locomotion disability. A few homes also accommodate people with a mental handicap;

(b) Six institutes for deaf or partially-hearing children and six institutes for blind or partially-sighted children: institutions which provide accommodation and counselling for children attending a school giving special (secondary) education. The institutes for the deaf also generally provide counselling for young deaf children and their family;

(c) Home-help organizations: organizations which provide help to families that include a handicapped person.

(d) Foster care and child-minding organizations: organizations that specialise in finding suitable child minders or foster families for handicapped children;

(e) Holiday homes: homes which give handicapped people and their families an opportunity to take a holiday;

(f) Early aid: experiments similar to the early aid for mentally handicapped children are being planned for the early recognition of development disorders in children under the age of four years;

(g) Respite care: experiments with guest houses etc. are being started for the physically handicapped, once again similar to those for mentally handicapped children.

203. The Netherlands Government finances a large number of facilities for the provision of care and services (prostheses, orthoses and aids, technical and otherwise) under the Exceptional Medical Expenses Act (Algemene Wet Bijzondere Ziektekosten). Under the Health Services Act (Wet Voorziening Gehandicapten), the municipalities have a duty to provide transport facilities, wheelchairs and adaptations to the home (costing under 45,000 guilders). Home adaptations costing more than 45,000 guilders are covered by a special scheme of the Health Insurance Funds Council. The facilities and aids needed for the education of the handicapped are funded under the General Invalidity Benefits Act (AAW).

204. Since 1 January 1996 a scheme of client-linked budgets has been in operation in the domiciliary care sector and the sector for people with a mental handicap. The aim of the scheme is to switch from a "facilities-oriented" system of provision to a "function-orientated" system which is more in keeping with the wishes of the "client" and increases the efficiency of the service. A limited sum has been reserved for this experimental scheme, under which a package of care facilities and services can be selected and purchased for a handicapped child after an independent assessment of its needs. The future of client-linked budget schemes will become clear at the end of 1996 when the findings of an evaluation are published.

Problems

205. Facilities for handicapped children are funded from different sources and provided by an even larger number of institutions. These institutions have their own procedures for granting facilities and often require the user to make a contribution. This situation gives rise to three types of problem:

(a) A cumulation of client contributions;

(b) A cumulation of procedures which must be followed in order to obtain the necessary facilities;

(c) Insufficient coordination of the facilities and services provided. To identify and solve problems of this kind the Netherlands Government has established a coordinating authority known as the Interdepartmental Steering Group for the Handicapped, which is under the direction of the Ministry of

Health, Welfare and Sport. In addition, there is a forum for structured consultation on policy on the handicapped in which the central Government and national organizations of and for the mentally and physically handicapped take part.

206. To solve the first problem, the Netherlands Government decided in 1996 to pay an extra allowance to parents who look after their handicapped child at home. To tackle the second problem it introduced the Health Services Act in 1995, which adopts a "single-counter" approach (i.e. all facilities and services are available through a single coordinated centre). The operation of the Act and the extent to which it helps to resolve the problem described above will be reviewed after three years. As regards the third problem, various examples can be given of how the Netherlands Government is endeavouring to establish effective interdepartmental coordination procedures.

207. Nursing assistance/medical counselling at schools for special education. Schools for the provision of special-needs education have traditionally provided forms of nursing for the children in their care. For many years it was unclear where the administrative responsibility and competence lay for this nursing. Recently it has been agreed by the Ministry of Education, Culture and Science and the Ministry of Health, Welfare and Sport that this care should form part of the policy responsibility of the latter ministry. How this is to be implemented remains to be decided.

208. Coordination of special schools and residential care for young people. The placement of young people who have behavioural problems and a slight mental handicap and live in orthopedagogic centres gives rise to problems of coordination between the education facilities financed under the Exceptional Medical Expenses Act and the youth care facilities financed under the Youth Services Act. In policy terms, the orthopedagogic centres come under the Hospital Provision Act, which has its own capacity planning procedure that is independent of the demand for education facilities in a region and of the need for (differentiated) reception and treatment facilities in each province that are geared to demand.

209. Coordination between day centres for the handicapped and special schools. Another problem noted in particular by the education and health care inspectorates concerns the coordination, cooperation and overlapping between schools and day centres. These are two separate systems of facilities which have the same children as their target group. The State Secretaries with responsibility for education and for health and welfare are at present considering the future division of responsibility between health care and education.

Waiting lists

210. A general problem affecting the care of the disabled is the shortage of places in the various facilities. As a consequence, there are waiting lists for prospective clients. In the case of handicapped children this is evident, among other things, in the demand for hostels. As rehabilitation centres are cutting back on places, extra pressure is being put upon the children's hostels. The Netherlands Government wishes to reduce the waiting lists for these hostels by introducing functional descriptions of entitlement under the

Exceptional Medical Expenses Act, combined with the introduction of a client-linked budget and, possibly in the future, a budget that "follows" the client. In this way it will be possible for parents themselves to purchase care in the home for a handicapped child living at home.

C. Health-care services (art. 24)

General/preventive health care

211. Child Health Care (JGZ) in the Netherlands is intended for all children aged under 19 and their parents. The aim of the Netherlands Government is to provide the care in such a way that the groups with the highest risk of impairment to health actually receive the greatest care. Over 40 per cent of the 0-19 year age group have contact every year (at least once) with the child health-care service when undergoing a preventive health examination. Health care for children under the age of 4 is provided by recognized home nursing and care organizations. This is funded under the Exceptional Medical Expenses Act. In accordance with the Public Health (Preventive Measures) Act (Wet collectieve preventie volksgezondheid) the municipal council is responsible for taking measures to prevent infectious diseases and health risks to children above the age of 4. Health care for the 4-19 age group is therefore provided by the municipal health services (GGD) and is financed from the Municipal Fund.

212. Health care for infants and toddlers includes home visits, preventive medical examinations, vaccinations, screenings and information meetings. Health care for schoolchildren includes systematic early detection of development disorders, vaccination programmes, sociomedical duties, advice on physical, psychosocial and child-rearing matters, preventive dental care and coordination of curative and preventive dental care for young people.

213. The national vaccination programme and the screening programme for the protection of phenylketonuria and congenital hypothyroidism are successful elements of the child health-care service. The Netherlands has a vaccination rate of approximately 94 per cent. The basic object of policy is to reduce the socioeconomic differences in health both generally and among young people. A policy aimed at particular facets outside the field of health care can make an important contribution to preventing ill-health. This is one reason why the Netherlands School of Public Health has been given the role of supporting this "facets policy". The health of young people also benefits from an active policy on school health. A survey of the quality of child health care for the under-19s is presently being conducted. The aim of the survey is to monitor and analyse the state of health care for this age group taking account of the coordination and cooperation of the organizations involved in implementing child health care (i.e. municipal executives, municipal health services and home nursing and care organizations). The survey is concentrating on the quality of the service in terms of effectiveness, efficiency and price/quality ratio. The Netherlands Government will announce its position on the findings of this survey to the Lower House of Parliament in the spring of 1997.

Child mortality

214. The number of deaths in absolute terms in 1990 was approximately 39,000 men and 62,000 women. Child mortality has fallen rapidly in the last 150 years, and further reductions have occurred in recent decades. In the first half of the 1960s, some 4,000 infants died each year and there were some 6,300 deaths annually in the perinatal period. In the second half of the 1980s infant mortality fell to 1,400 and perinatal mortality to 1,800 a year. According to WHO data, the 1991 infant mortality rate of 6.5 per thousand live births was among the lowest of the member States of the European Union. The reasons for the decline in infant and perinatal mortality should be sought in changed living habits and improvements in medical care. The decline in infant mortality is largely attributable to a sharp fall in cot deaths, which occurred in the late 1980s.

Poor nutrition

215. The Netherlands is one of the few European countries where a food consumption survey is periodically carried out among individuals. After the first survey in 1987-1988 a second was carried out in 1992. The third will be in 1997. The survey provides information about the average daily consumption of nutrients and foods by boys and girls per age group (1-4, 4-7 and so forth). The second survey showed that although the consumption of fats had declined since the first survey, it was still too high. It follows that reducing the consumption of fats still deserves a high priority. A policy paper entitled "Healthy and Well, framework of health policy 1995-1998" therefore attempts to improve people's diet by encouraging a further reduction in the consumption of fats and an increase in the consumption of fruit and vegetables. The targets are:

(a) To reduce fat consumption to under 35 per cent of energy intake;

(b) To encourage at least a 10 per cent increase in the consumption of fruit and vegetables.

216. The TNO Prevention and Health Research Institute cooperates with the municipal health services to collect data on the health of schoolchildren in the Netherlands. Material for this purpose is supplied through preventive health screenings by school doctors and nurses. The third screening was carried out in the 1993/94 school year. Almost all the schoolchildren had eaten bread, fruit and vegetables, meat and sweet or savoury snacks on the day of the survey. Likewise, almost all of them had drunk milk or soft drinks on that day. Around 10 per cent of all schoolchildren are overweight. At secondary school level, a higher proportion of pupils in junior secondary vocational education (LBO) and junior general secondary education (MAVO) are overweight. They are also more likely to be on a diet. Seven per cent of pupils do not eat certain foods because they are over-sensitive to them. Examples are colorants, aromatic substances and flavourings, chocolate and cow's milk.

Breast-feeding

217. The Central Bureau of Statistics (CBS) has collected data since 1989 in order to ascertain how many infants are breast-fed. Over two thirds of infants in the Netherlands are breast-fed from the date of birth onwards. This percentage remained fairly constant in the period from 1989 to 1994. The difference in the percentage of boys and girls who were breast-fed was not significant at any stage of the survey. In general, a higher percentage of women with private medical insurance (as opposed to compulsory insurance) breast-fed. Forty-four per cent of all infants were still breast-fed at the age of three months. Since 1991 the percentage of breast-feeding mothers has been higher among mothers over 30 than among younger mothers (16-29). Only about a quarter of all infants were still breast-fed at the age of six months. As in the case of the three-month figures, the six-month figures also show differences between privately insured and compulsorily insured mothers and between mothers with higher and lower levels of education. The overall picture is that a higher proportion of the better educated mothers breast-fed. This applies both to breast-feeding at birth and to breast-feeding at three and six months. These differences according to the educational level of the mother are in keeping with the differences according to the form of insurance. In general more mothers with a higher socio-economic status breast-fed than other mothers. The connection between breast-feeding at birth and the educational level of the mother declined between 1989 and 1994. This decline was primarily due to the increasing number of mothers with a low level of education breast-feeding from birth.

Family planning

218. The primary aims of the policy of the Netherlands Government on family planning are to prevent sexually transmitted diseases and unwanted pregnancies. Social organizations such as the Rutgers Foundation are subsidized to provide information about sexuality (including sexual abuse) to children in primary and secondary schools. The Rutgers Foundation produces material for teachers and other intermediaries. It also has seven centres where young people may, if they wish, consult a doctor anonymously about sexuality, relationships, contraception and venereal diseases. In addition, the Rutgers Foundation provides treatment and back-up services for children and young people in residential homes.

219. The Netherlands Government also subsidizes the Netherlands Institute for Socio-sexual Research (NISSO). As the name suggests, the institute carries out research in the wide field of sexuality, the individual and society. This includes much research dealing with the behaviour and perceptions of children and young people. The institution has an extensive documentation system which is of major assistance in developing policy on the provision of assistance and information and on prevention in matters of sexuality in the broadest sense.

Harmful practices (female circumcision)

220. The circumcision of women and girls is regarded in the Netherlands as a form of oppression of women. As Dutch policy is to combat such oppression, the Netherlands Government rejects every form of female circumcision. For many years it has therefore supported projects in Africa to proscribe female

circumcision. The increased flow of refugees from African countries to the Netherlands has created a need for the Netherlands to have its own policy in this field. It has adopted measures aimed at prevention. Intervention by the justice authorities is employed as the last resort. The preventive measures are aimed in particular at providing information to refugees and asylum seekers (men and women) and to social workers and institutions involved in supporting, educating and counselling these groups of people.

221. For this purpose a national female circumcision information and consultation centre was established in 1993. The functions of this centre are to prevent the circumcision of girls and to improve assistance to refugee women and asylum seekers who have already been circumcized. This help has tended to be concentrated on women and girls from Somalia because they form the largest group of refugees in the Netherlands to be affected by this problem. The centre has developed a strategy for the provision of information directly to the refugee women and girls, although it also provides information to the ordinary health-care services. This has been done through various publications and a range of information and training courses. The centre has also established a working group to draw up guidelines for people working in the health-care sector. The following organizations and institutions are represented in this working group: the child-care and protection boards, the child abuse counselling centres, the medical chief inspectorates, the medical department of the establishment responsible for receiving asylum-seekers, and the justice authorities.

D. Social security (article 26)

222. The Netherlands has adopted the provisions of article 26 of the Convention subject to the reservation that this provision does not confer an independent right of children to social security, including social insurance. Under paragraph 1 of article 26, States parties are under an obligation to recognize for every child the right to benefit from social security, including social insurance. Paragraph 2 specifies that the benefits should take into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

223. In the opinion of the Netherlands, the article implies that States parties should grant social security rights to a child itself since the article talks of recognition of the rights of a child to benefit and of applications for them made by or on behalf of the child. Although, in the Netherlands, a child may in certain circumstances (in its capacity as employee or resident) have an individual entitlement to social security benefits, what tends to happen in practice is that the child's rights to social security are derived from those of the parents. The amount of the social security paid to the parents is fixed in such a way that the obligations of the parents towards the child in terms of care and maintenance can be paid from the benefits. Independent rights of the child to social security exist in the Netherlands only to a limited extent, and there are no proposals for changing this in the future. The Netherlands therefore feels obliged to maintain the reservation made at the time of ratification.

224. As regards the granting of social security entitlement to the child under Dutch legislation, the following points should be noted. Under the Dutch social security system, a distinction is made between employee insurance and national insurance. The employee insurance schemes include the Unemployment Insurance Act (WW), the Sickness Benefits Act (ZW), the Invalidity Insurance Act (WAO) and the Health Insurance Act (ZF). The national insurances consists of the Old Age Pensions Act (AOW), the Surviving Dependants Act (ANW), the General Invalidity Benefits Act (AAW), the Exceptional Medical Expenses Act (AWBZ) and the General Child Benefit Act (AKW). For further information, reference should be made to the enclosed brochure entitled "A short survey of social security in the Netherlands - 1 July 1996".*

225. Every natural person who is employed in a post under private or public law is in principle treated as compulsorily insured under the employee insurances. The rule in the case of the national insurances is that every person resident in the Netherlands and every person who is not resident in the Netherlands but who is subject to wages and salaries tax in the Netherlands on account of employment is insured in principle. Persons who do not have sufficient means to cover the necessary costs of subsistence and who are unable - or no longer able - to claim under one of the social insurance acts may be entitled to benefit under the National Assistance Act (ABW). This Act serves as a complement to the other Acts comprising the social security system and also as a safety net in so far as these other Acts and schemes are insufficient.

226. If one of the social security risks regulated in the employee insurances and national insurances (unemployment, sickness, disability, death or childbirth) occurs in relation to a child, the child (or any descendant in the event of its death) is independently entitled to the relevant benefit if and insofar as it is insured. However, the General Invalidity Benefits Act (AAW) is an exception to this rule since a child under the age of 18 who becomes unable to work because of a disability is not entitled to benefit under the Act. Under the Surviving Dependants Act (ANW), a child is not independently entitled to a pension unless both parents have died. If only one of the parents has died, there is entitlement to a pension as a "half-orphan" but the right may be exercised only by the surviving parent who is caring for the child. It should also be noted in this connection that entitlement to child benefit (a contribution towards the costs of raising and maintaining a child) belongs exclusively to the parent and not to the child itself. Nor do children have an independent right to assistance under the National Assistance Act. The general principle here too is that their parents are primarily responsible for looking after and maintaining them. If their parents have insufficient income to cover the costs of maintaining themselves and their children, there is entitlement to benefit. However, it is the parents who are in principle entitled and not the child. A single parent is entitled to a special benefit rate.

227. Finally, it should be noted as regards the Exceptional Medical Expenses Act that children have independent rights to the forms of medical care covered

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* Available for consultation in the Centre for Human Rights.

by the Act on account of their residence in the Netherlands. Under the Health Insurance Act, however, children have independent rights only if they have an independent legal ground for compulsory insurance, for example if a child is an employee or is entitled to a benefit under one of the Dutch social security acts. A child may also be entitled to co-insurance under the Health Insurance Act. This is the case where a parent is compulsorily insured under the Health Insurance Act and his income for the purposes of the Act is equal to or exceeds half of the aggregate income of himself and his partner. In other cases, private medical insurance should be taken out for the child.

E. Child-care services (article 18, paragraph 3)

General

228. In the late 1980s, organized childcare was available in some form in 200 of the (then) more than 600 Dutch municipalities. The total organized child-care services and facilities had a capacity of 20,000 at that time. This was one of the lowest levels in Europe. Since 1990 it has been the policy of the Netherlands Government to promote the expansion of organized child-care facilities, and it has accordingly provided extra funds for this purpose. The aim was to increase capacity by 50,000 during a four-year period (1990-1993). The instrument employed in this connection is the Child-care Incentive Measure, a subsidy scheme for municipalities. Municipalities receive a contribution towards the costs of childcare of approximately 5,000 guilders a year per child-care place. The remainder of the funding has to be obtained from parental contributions, income from hiring out child-care places to employers, and the municipalities' own funds. The aggregate sum available for implementation of this measure during the four-year period was over 865 million guilders. The period was extended for another two years (1994-1995) in order to provide a rather firmer basis for the results and to achieve further growth through the hiring out of child-care places to firms and institutions. When the incentive policy finished at the end of 1995, the funds were transferred to the municipalities. Employers who provide child-care facilities for their staff have also qualified for a new form of tax relief since 1996.

229. The primary aim of this policy was to increase the child-care capacity by 49,000 places, with around 17,000-18,000 being hired out to firms for the children of their staff. As it was known in practice that a single place was generally occupied by more than one child, it was expected that this expansion would enable around 90,000 extra children to be placed. However, the policy is also intended to have a number of subsidiary effects through the imposition of subsidy conditions and the making of recommendations to municipalities:

(a) The facilities are to be accessible to the children of parents with low incomes, children from an immigrant background and children of single parents;

(b) Firms and institutions and employers/employees are to participate in the expansion of the child-care facilities and in their financing;

(c) Quality is to be improved.

230. This report gives the results of the child-care policy in the period from 1990 to 1993. The situation at the end of 1993 is compared wherever possible with the situation in 1989 (the year before the incentive measure took effect).

The supply of child-care places

231. By the end of 1993, the provision of child-care facilities had become a normal part of the work of municipalities. Child-care services were provided in almost all municipalities. Whereas 32.3 per cent of municipal child-care facilities were provided within the boundaries of the municipality concerned at the start of the incentive measure, this rate had risen to 90 per cent by the end of 1993. This figure includes the small municipalities which provide services in a regional context. Almost 80 per cent of the municipalities have child-care facilities actually within their own municipal boundaries.

232. The number of child-care facilities was 2,166 at the end of 1993. The figure in 1989 was 899. This represents a growth rate of 141 per cent. Over three quarters of the facilities in the Netherlands at the end of the incentive period had been established or expanded with the assistance of the child-care incentive measure. The growth in the number of facilities occurred primarily in the subsidized sector, in which all forms of childcare benefited. For example, the number of subsidized day centres for children aged under four rose from just over 200 to almost 950 and the number of child-minding agencies rose from 35 to over 200.

233. During the period 1989-1993 the non-subsidized child-care sector increased its capacity from 7,000 places in 408 centres to 10,548 places in 375 centres. At the end of 1993 83 per cent of child-care places were subsidized and 17 per cent not subsidized. The number of non-subsidized child-care centres has thus declined slightly, but the capacity of these centres has increased. The fear at the start of the incentive measure period that non-subsidized childcare would be replaced by subsidized care has thus proved unfounded. Both the number of child-care centres in the non-subsidized sector and the form of the care have therefore remained very stable.

Places created

234. At the end of 1993, the number of places in child-care facilities totalled 67,827. This represented a growth rate of 233 per cent in relation to 1989 (the year preceding the start of the incentive measure scheme). In that year the capacity was 20,393. This means that 47,434 extra places have been created. This growth is due partly to the increase in the number of facilities and partly to the increase in the capacity of individual facilities. The average size of a child-care centre rose from 23 places at the end of 1989 to 31 places in 1993. As a result of these developments, the number of child-care places per 100 children aged under 13 rose from 0.83 per cent to 2.88 per cent in four years.

235. During the incentive period there has been a gradual increase in the extent to which employers are willing to share responsibility for childcare. Two thirds of employers now regard the provision of childcare either as a responsibility of the employer or as a fringe benefit (although in many cases

this view is not reflected in the provision of actual child-care facilities for employees). This changed attitude is apparent in the increase in the number of arrangements for childcare made as part of collective agreements. A survey at the end of 1994 shows that child-care arrangements had been made in around 220 collective agreements and company schemes. The provisions varied from mere statements of intention to specific provisions for childcare.

236. The number of children making use of child-care facilities has naturally grown together with the capacity. In 1993 121,000 children used these facilities. The figure in 1990 (earlier figures are not available) was around half that number (56,000). The number in 1993 was low in relation to the number of places available. The ratio was less favourable than in preceding years. This was due to the fact that 20,000 extra places became available in 1993 only in the course of the year and a proportion of them could be used only after 1993. As a result of this rapid growth, the utilization rate fell to 75 per cent, after having previously climbed from 82 per cent in 1990 to 85 per cent in 1992. The surveys clearly show that the utilization rate will have risen again in 1994 to its previous level and that the proportion of children in child-care facilities will have climbed back to around 2 per cent. This means that the target set by the Government will have been achieved in this respect too.

237. The figures on children using the child-care facilities show that at the end of the incentive measure period 5 per cent of the under-13s made use of the facilities. There is a major difference between the youngest group (the under-4s) and the 4-13 age group. Almost 12 per cent of the former group use child-care facilities, compared with less than 1 per cent of the latter group.

238. Although the number of child centres (day centres for children, after-school reception and combined centres) easily exceeds the number of child-minding agencies, the relative increase in the number of agencies is slightly higher than that of the centres. Whereas the child-care centres more than doubled between 1989 and 1993 (from 820 to 1,932), the child-minding agencies quadrupled (from 79 to 234). During this period these agencies also started to serve more and more municipalities. The reception capacity of these agencies totalled 6,400 places at the end of 1993. The great majority of this increase in capacity was due to an increase in the average reception capacity per agency. At the end of 1993 the average capacity of the child-minding agencies was just over 27 places (i.e. representing about 70 links between parents seeking child-minding facilities and child-minding parents). The reception capacity of the child-care centres totalled around 61,500 places at the end of 1993, with an average capacity of almost 32 places per child-care centre.

239. At the start of the incentive policy period, the emphasis was mainly on developing care facilities (day or half-day) for the under-fours. Gradually, however, increasing emphasis has been put on after-school care facilities. By way of illustration, the number of child-care facilities rose from 617 to 858 between 1989 and 1990, while the number of after-school facilities fell from 121 to 117. However, in the last year of the incentive scheme the after-school facilities caught up. While the number of child-care facilities rose by "only" 15 per cent, the number of after-school facilities climbed by 74 per cent.

240. Nonetheless, after-school facilities account for only a small proportion of the total child-care capacity. The capacity for the 4 to 13-year-olds is smaller by a factor of almost 10 than the capacity for the youngest age group. In 1993 7.18 places were available per 100 children in the under-4 age group compared with 0.83 places for the 4 to 13 age group. However, the increase in the places for the latter age group is the strongest in percentage terms.

Demand for child-care facilities

241. At the end of the incentive scheme period around 100,000 parents in the Netherlands made use of child-care facilities. Nine thousand used child-minding agencies and 91,000 used the reception facilities of a child-care centre. On average, one parent makes use of child-care centre facilities for 1.2 children. Over a third of the parents use a subsidized place, slightly more than one third a company-sponsored place and over a fifth a private place.

Aspects of use

242. Almost all parents who made use of a subsidized place at the end of 1993 had started using child-care facilities only after 1990. Over one third of the parents had first used other forms of childcare. This was attributable to the length of the waiting lists. Many parents also put their children on the waiting list early, even during pregnancy.

Aspects of childcare

243. The relatively new and fast-growing child-care sector is paying increasing attention to the importance of ensuring the quality of the care. A system of quality care and quality assurance is currently being devised for which the child-care sector itself will be responsible. An order in council is in force at present, which provides that application must be made to the local council in order to open and operate a child-care facility. Within a few years of the start of the incentive scheme, almost all municipalities had introduced a local by-law governing the quality of childcare and laying down rules governing staff qualifications, insurance, size of group, accommodation and sickness. Within five years at the most, the authorities will examine whether the present minimum standards under the order in council and the local by-laws based on it can be replaced by the national quality system established by the child-care sector.

244. A survey has shown that users are very satisfied with the arrangements: 95 per cent of the users are content with the service provided. However, 40 per cent stated that there were problems with the use of child-care facilities at present. Almost all the problems listed relate to one central issue: the reception hours do not correspond fully to the needs. Problems revealed by the survey include:

(a) Opening hours of child-care centres do not correspond to working hours;

(b) No provision for looking after sick children;

(c) Some child-care centres are closed in the holiday period;

(d) The fixed times for taking and fetching the children are too inflexible.

In addition, around one third of all users considered that the high cost of childcare was a problem. Finally, immigrant parents pointed out that the practices in child-care centres and child-minding families quite often differed from their own customs. Over two thirds of the facilities have no specific rules for immigrant users. However, most child-care centres do make provision for different eating habits.

Childcare for disabled children

245. The Netherlands Government takes the view (parliamentary documents, 1994-1995, 21 180, No. 27) that the reception of handicapped children should take place as far as possible within the ordinary facilities, i.e. play groups for toddlers and ordinary child-care centres. At present, there are no means of facilitating this process by partial funding under the Exceptional Medical Expenses Act. Possibly, a client-linked budget could in due course provide a solution (see also article 23, regarding disabled children).

F. Standard of living (article 27, paragraphs 1, 2, and 3)

246. Article 245, paragraph 2, of Book 1 of the Netherlands Civil Code provides that parents have a general obligation to look after and raise their children. In accordance with article 404 of Book 1 of the Civil Code, parents are also obliged to bear the costs of caring for and raising their minor children (whether they are legitimate or illegitimate children). The parents should fulfil their financial obligations to the best of their ability given their financial means. This obligation therefore consists not only of the costs of such things as food and clothing but also of the costs of the upbringing in general. If the parents lack the financial means to pay for some or all of the costs of subsistence, they may claim benefit under the new National Assistance Act.

Policy on minimum-income households/poverty

247. The new National Assistance Act (known as the nABw), which took effect on 1 January 1996, recognizes three categories of household: single persons; single parents; couples (married or otherwise). The amount of the benefit depends on the type of household to which a person belongs. A separate rate applies to single-parent families under both the old and the new legislation, and a distinction is also made between single people and couples. One-parent families were entitled to 90 per cent of the net minimum wage under the old ABW. Single parents and couples received 70 per cent and 100 per cent respectively. The rates received by single persons, single-parent families and couples under the new legislation are 50 per cent, 70 per cent and 100 per cent respectively. If a single person or single parent has higher subsistence costs because all or part of these costs cannot be shared with other persons, they are eligible for an allowance not exceeding 20 per cent of the net minimum wage. A person who occupies a dwelling alone always receives the maximum allowance of 20 per cent, with the result that a single person and

a single parent again receive 70 per cent and 90 per cent respectively of the minimum wage. The designation of single parents as a separate category, with a higher payment than single persons, in fact represents an extra allowance for the costs incurred on behalf of children, especially for single-parent families.

248. The publication of a policy paper entitled "The other side of the Netherlands. About preventing and combating hidden poverty and social exclusion" has put poverty back on the agenda of Dutch policy. An important way of combating poverty is to give everyone the opportunity to work. This means that various groups such as the long-term unemployed and women should be able to participate in the labour market. Employment is the main safeguard against poverty.

249. Women run a greater risk of suffering poverty because they end up on national assistance earlier than men. In order to promote the participation of women in the labour market, women in receipt of national assistance and whose children are aged four years or over are now obliged under the new National Assistance Act to seek employment. The problem of childcare can be a major obstacle to women seeking employment. This is particularly true in the case of single parents. In recent years, there has been a considerable increase in the number of places in child-care facilities. However, more places are still needed. An additional problem is that single parents may be reluctant to use child-care facilities because of the contribution they are required to pay. Many of these parents will be coming off benefit and taking low-paid jobs. The Government has therefore decided to allocate an extra sum of 85 million guilders to enable municipal authorities to "buy" child-care facilities for single parents taking up jobs or attending a training course. These parents need not pay any contribution until they are earning an income that is sufficient to enable them to pay for childcare. This can help to reduce the number of women (with children) living in poverty and consequently also the number of children living in hidden poverty. These measures will (indirectly) improve the standard of living of children. Further information on child-care services may be found in section E above.

Study costs allowance

250. A major expense which parents incur for their children is the costs of study. To assist parents with these costs the authorities have established a study costs allowance. This allowance relates in particular to the study costs of children who are still living at home and are attending secondary school.

251. The study costs allowance depends on the contribution of the parents, which depends in turn on their financial means, namely (i) taxable income (where applicable, their aggregate taxable income); (ii) number of children; (iii) taxable (joint) assets. The allowances relate to: (i) direct study costs; (ii) travelling expenses for children living at home; (iii) additional expenses for children living away from home; (iv) tuition fees in secondary education. The allowance for the different categories was as follows in 1996:

Allowance for direct costs of study (senior secondary vocational education, higher vocational education, university education)	1,230
Allowance for direct costs of study (secondary education) class 1	765
Allowance for tuition fees age 16 and 17 (1st year of secondary education)	1,497
Allowance for tuition fees age 16 and 17 (2nd year of secondary education)	1,497

Source: Ministry of Social Affairs and Employment (ASEA), database.

Measures for the support of children (16-21) themselves

252. Student Finance Act. The Student Finance Act (WSF) is intended to provide a contribution towards the study costs of children in full-time education. The nature of the support under the Act is very different from that of the study costs allowance described in the previous section. Each student is entitled to a basic grant depending on the income of his or her parents. In addition, students whose parents lack the financial means to support them may be entitled to a supplementary grant or loan. The Act relates to students aged 18 to 27. Until 1 January 1996 the progress of the student was checked each year and the grant (basic and supplementary grant) was either continued or converted into an interest-bearing loan, depending on the number of study points gained by the student. Since 1 January 1996 students have received a conditional interest-free loan known as the "performance grant", which equals the basic and supplementary grants previously paid. Provided that the final degree certificate is obtained in time, this loan, including the interest charged on it, is converted into a grant. The arrangement during the first year of study is that half of the requisite number of study points must be obtained in order for the loan for the first 12 WSF months to be converted into a grant. If the course is completed within six years, the remaining WSF months are converted into a grant.

253. This financial provision is intended for the maintenance and study costs of the students themselves. In principle, each student receives a basic grant. The parents must contribute to these costs in accordance with their financial means. In this way, the Student Finance Act helps to maintain the standard of living of students and hence of young people. Although students belong to the lowest income decile in the Netherlands, the Government takes the view that studying is an investment by the student in his of her future which will pay off in due course because the student will be able to find better paid work after graduation. In addition, each student may earn a fixed amount annually, without this affecting the amount of the grant. The maximum that may be earned is 15,000 guilders in both 1995 and 1996. The table below shows the amount of the basic grant and the maximum supplementary grant for 1995 and 1996:

	1995	1996
Basic grant (living away from home)		
university	5 640	5 100
higher vocational education	5 640	5 100
senior secondary vocational education	5 124	4 692
Basic grant (living at home)		
university	1 896	1 500
higher vocational education	1 896	1 500
senior secondary vocational education	1 380	1 092
Supplementary grant (living away from home and privately insured)		
university	3 751	4 593
higher vocational education	4 853	4 593
senior secondary vocational education	5 819	6 468
Supplementary grant (living at home and privately insured)		
university	3 475	3 798
higher vocational education	4 577	3 798
senior secondary vocational education	5 543	6 048

Source: Social Memo 1996 and ASEA database.

254. Finally, a number of specific measures that may also be applicable to the policy on minimum incomes for young people aged 16-21 are described below.

255. Remission policy. People in receipt of a minimum income may be eligible to remission of municipal taxes and charges. The threshold for such eligibility was raised on 1 January 1995 from 90 per cent of the relevant national assistance standard (depending on the type of household) to 95 per cent of the standard. On 1 January 1997 this remission rate was increased from 95 per cent to 100 per cent of the relevant national assistance standard. Although these measures do not relate specifically to children, the standard of living of children (or parents with children) may be improved as a result. Similarly, the standard of living of young people in the 18-21 age group may rise as a result of this measure.

256. Special assistance. The budget for special assistance has already been decentralized and passed to the municipalities. In addition, the municipalities have obtained wider powers in granting special assistance.

Special assistance is important not only for adults. If parents are unable to contribute to their subsistence costs, young people under the age of 21 may be eligible for special assistance in order to raise their income to the level of the social minimum for their age. Since the budget has been transferred to the municipalities, decisions on the granting of special assistance can now be tailored more effectively to individual needs. In addition, people in receipt of a low income from employment (usually young people) can benefit from these wider powers because the target group eligible for special assistance should be independent of the source of the income. This means that the claimants are not confined to people in receipt of benefit.

257. Youth Employment Guarantee Act. The Youth Employment Guarantee Act (JWG) is intended to cover young people under the age of 21 who have been unemployed for at least six months. The aim of the legislation is to guarantee work instead of benefit in order to improve their chances in the labour market. This measure too provides young people under the age of 21 with an opportunity to gain job experience in order to increase their chances of finding employment and thus improving their standard of living.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (article 28)

1. Paragraphs 1 (a) and (b) - Primary and secondary education

Compulsory education

258. Pupils aged 5 to 16 are obliged to attend school by law in the Netherlands. This obligation includes a duty to register at a school and to visit school regularly. The obligation is regulated in the Compulsory Education Act (Leerplichtwet) 1969. The full obligation starts on the first day of the month following that in which a child reaches the age of 5 and generally ends in the school year in which it attains the age of 16. Thereafter there is a partial attendance obligation: namely two days a week. Young people who have concluded an apprenticeship agreement are obliged to attend school one day a week. The partial attendance obligation lasts until the end of the school year in which the pupil reaches the age of 17.

259. Children may be registered as a pupil at a primary school from the age of four onwards. Around 97 per cent of parents/guardians of four-year-olds exercise this right. In the case of some types of special-needs school, this right may exist from as early as the age of three.

Special education

260. Some pupils experience problems in school because of physical and/or mental handicaps. Sometimes these problems are of such a nature that unless specific measures are to be taken the child would not be able to exercise its right to education on the basis of equal opportunities. A specific instrument is the system of special education (both at primary and secondary level). Fifteen types of special-needs school exist within this system, each of them intended for pupils with particular handicaps. For some time now the policy of the Government has been to slow the growth of special education and to

increase the breadth of care provided in primary education. The basic principle in this connection is that the ordinary primary schools have the basic responsibility for all children. Schools providing special education now have a dual function: to support the ordinary primary schools and to provide education for pupils who, despite the wider care in ordinary primary schools, cannot be educated in these schools.

Secondary and vocational education

261. After attending primary school or a special-needs school, pupils move to a secondary school. Secondary education consists of the following categories: pre-university senior general secondary, junior general secondary and pre-vocational.

262. Pre-university education lasts six years and is in principle intended as preparation for a university course, but it may also lead to a higher vocational course. Senior general secondary education lasts five years and is in principle intended as preparation for higher vocational education. Junior general secondary education lasts four years. It constitutes the first phase of secondary education and is a preparation for senior secondary vocational education. Pre-vocational education lasts for four years and provides the basis for a subsequent vocational course. There is a separate department for pupils who have difficulty with the normal programme. They can then attend an individual pre-vocational school where pupils are taught in smaller groups and receive more attention than would be possible in the ordinary pre-vocational schools.

263. All secondary schools have started their first-year students with a basic education course since the 1993 school year. This basic education lasts in principle for a period of three years (but in any event for no less than two and no more than four years). The aim is to provide pupils with a broad general education. This basic education is not a type of school but a substantive innovation which applies to all categories of secondary school.

264. The choice of the types of education and categories of school described above is made as follows. At the end of primary school the parents and pupil together decide on a secondary school and a particular type of education. The primary school makes a non-binding recommendation, which is recorded in the educational report, in the course of the last year at primary school. This recommendation is usually based on the final tests carried out at many schools, on the academic results at primary school and on the interests and motivation of the pupil, and follows a talk with the parents. However, it is the competent authority of a secondary school which decides on the admission of a pupil to that school; for this purpose it may establish an admissions committee to act under its responsibility. An admissions committee consists of the school heads and one or more teachers of the secondary school. The head of the primary school is obliged to indicate the learning capabilities and academic progress of the pupil in the educational report.

265. The right to vocational education is laid down by law. As a rule, there is a free intake of children and adults. The intake may be limited only if

the quality of the education would otherwise suffer, in particular because of the limited availability of places in industry in which practical experience can be gained.

The costs of education

266. Education is free for primary school pupils. This also applies to pupils under the age of 16 at secondary schools, special schools and vocational schools. The parents of pupils who are aged 16 and over, are in full-time education and are attending a secondary school, a special school or a school for (senior secondary) vocational education must pay tuition fees each year, assuming that they have an obligation to maintain their children. The amount of the fees is fixed annually on the basis of a statutory system of indexation. Depending on the income of such parents, a contribution may be made to the direct study costs, i.e. the costs incurred in connection with the tuition fees and the purchase of textbooks and course materials. To defray special costs, for example the costs of celebrations and school outings, the school may request the parents for a contribution. This contribution is not obligatory and is therefore made on a voluntary basis: pupils can never be refused access to the school on the ground that such a contribution has not been paid. Under new plans, the existence or establishment of a voluntary contribution and the amount of the contribution will be subject to the approval of the parents' representatives - and, if applicable, the pupils' representatives - on the participation council.

2. Paragraph 1 (c) - Higher education

267. Institutes of higher education impose conditions concerning prior educational qualifications on persons seeking admission (section 7.24 of the Higher Education Act (Wet op het Hoger Onderwijs)) and there is a central application and registration system. If the number of students wishing to follow a particular course exceeds the capacity of the institution, admission is decided by lot (the numerus fixus system). If there is no fixed maximum, students are entirely free to study at the institution of their own choosing provided that they have the requisite educational qualifications.

268. Students in higher education and in receipt of student finance owe tuition fees laid down by law. If they are not in receipt of such finance, the institution where they are studying determines the amount of tuition fees to be paid by them. Such tuition fees may not be lower than the fees laid down by law. Students in higher education may submit a claim under the Student Finance Act provided they are under the age of 27.

3. Paragraph 1 (d) - Providing information on education

Primary education

269. One of the regulations governing the quality of education is the Primary Education Attainment Targets Decree (Besluit kerndoelen basisonderwijs). The attainment targets are the knowledge, insight and skills which a pupil is expected to gain at primary school. It is laid down in these targets that pupils must be given information on types of occupation and career. At the end of primary school pupils choose a form of secondary education. The choice

of secondary school is based in part on a non-binding recommendation of the primary school, which takes into account the test results of the pupil in the last year of primary school and a talk with the child's parents.

Secondary education

270. The majority of secondary schools arrange open days when parents and prospective pupils can obtain general information about the school, the education it provides and the extracurricular activities. Once the choice has been made and the pupil has been admitted, parents are often invited to a further information meeting at which they are told what the pupil can expect during the period of basic education. There is also usually an induction period for pupils at the start of the first school year.

271. Secondary schools are obliged to recommend a type of education for each pupil at the end of the second year of the basic education period (section 28 (a), subsection 5, of the Secondary Education Act). The school head must be able to demonstrate to the education inspectorate and to the parents that the school can make these recommendations on the basis of structured information gathered during the basic education period. As mentioned previously, basic education is a substantive innovation within the existing types of school. One of the aims of basic education is to enable pupils to make an informed choice of further schooling and career. It is not the aim of basic education that pupils should make a choice immediately, merely that they should prepare themselves for making a choice at a later date. They must learn to see the importance of a particular subject for a given course of study or career. But each pupil should also be able to assess what opportunities are best suited to him or her. Teachers, tutors and careers officers play a supporting role in enabling pupils to prepare for these later choices. Each secondary school has a careers officer who provides information about subject combinations, further education, careers choice and student finance. The pupils can also discuss problems of a personal nature with the careers officer. Many schools have a special library or information centre containing pamphlets, brochures and booklets on further education and careers.

272. There are various institutions which can provide advice about schools, subject combinations, further education, careers, future opportunities, retraining and so forth. They can also make recommendations on the basis of an aptitude test taken by the pupils who consult them. For information about all types of course and occupation, parents and pupils can obtain free information from the information centres of the Education and Careers Guidance Agencies (AOB). The AOB may be consulted by individuals, schools and other institutions. The majority of schools have a contract with an AOB and receive a particular subsidy per pupil for this purpose from the Ministry of Education, Culture and Science. The Secondary Education Act (section 75 (c)) provides the statutory basis for the provision of subsidy for study and careers guidance to secondary school pupils.

Vocational education

273. The legislation provides that information and guidance on education and careers is an explicit responsibility of the Regional Training Centres. How the centres discharge this responsibility is monitored by means of a quality report.

4. Paragraph 1 (e) - Encouraging regular school attendance

274. The efforts to increase efficiency are playing an increasingly important role in Dutch education policy. A relatively high priority is being given to young people who have difficulty in coping in the present educational system. Under the education policy, these young people are being encouraged in numerous ways to achieve at least an initial qualification for the labour market. To guarantee the right to education and also to combat truancy, the Compulsory Education Act (1969) provides that children in the Netherlands are obliged to attend school between the ages of 5 and 16. Despite this statutory obligation, the problem of people dropping out of school has proved intractable. Many measures are taken in the Netherlands to ensure that people stay at school longer: legislation, allowances, specific guidance, reporting duty, etc. A policy paper of the Ministry of Education, Culture and Science in 1993 ("Een goed voorbereide start" - "Off to a good start") announced a number of measures and provisions to tackle the problem. The aim of these measures and provisions was to increase participation and reduce the drop-out rate. One of the measures was an amendment to the Compulsory Education Act in 1994. One consequence of this amending legislation was that enforcement of the Compulsory Education Act was tightened up by giving more responsibility to those most closely involved (i.e. the school boards, municipalities, parents/guardians and the pupils themselves).

275. The municipality monitors compliance with the obligation to attend school. A local official is designated for this purpose. As soon as a pupil is absent for three successive days or misses more than one eighth of the teaching time during four successive school weeks, the school head must report this to the municipal official. Notification of this kind is necessary in the case of pupils having a partial attendance obligation only if they miss more than one eighth of the teaching time during four successive school weeks. If pupils are absent from school without consent, their parents (and from the age of 12 onwards they themselves) are liable to a punishment ranging from a reprimand to a fine. Each primary school, special (secondary) school and secondary school is obliged to indicate what measures it is taking to prevent truancy.

276. Another measure for reducing the drop-out rate is the introduction of the Regional Notification and Coordination Centre (RMC). The object of the RMC is to develop a watertight system in each region for identifying and registering drop-outs from ordinary education and encouraging them to take up their studies again.

277. Some measures to tackle the problem of drop-outs are intended to increase the chances of educational success of specific target groups that are at risk. Since 1985 efforts have been made under the Educational Priority Policy to reduce or end the learning disadvantages of pupils whose parents

have a low educational and/or occupational level or who come from an immigrant background. Arrangements have been made in both primary education and secondary education to provide extra teachers to cope with these learning disadvantages. The extra facilities under the Educational Priority Policy are intended to be used for adapting the instruction, providing extra guidance and study assistance to pupils with disadvantages, providing lessons in Dutch as a second language and maintaining contact with the parents of pupils.

278. To increase the involvement and participation of parents a campaign entitled "Participation in education" was started in 1995 by the Ministry of Education, Culture and Science. This campaign was aimed at parents with children in primary and secondary schools. Information material, books and videos in various languages were used to increase the involvement of the parents of disadvantaged pupils in the hope that this would have a positive effect on the academic success of the children concerned.

279. A large number of reception projects have been started to tackle the problem of pupils dropping out of school. Some are aimed at prevention. Around half of the schools involved in these projects cooperate with preventive projects outside school and claim good results. Other projects are aimed at getting drop-outs back to school. These projects have achieved good results: some 40 per cent of the participants ultimately obtain their secondary school-leaving certificate. Projects to find employment for drop-outs concentrate on the personal education of participants with limited schooling and on the practical application of what has been learned.

5. Paragraph 2 - School discipline administered in a manner consistent with the Convention

280. Although the content and organization of the instruction and hence the pedagogic and didactic approach to education and the school rules and their enforcement are the primary responsibility of the school board under article 23 of the Constitution, the requirement that school discipline be administered in a manner consistent with the Convention presents few problems in practice. At school level there are various safeguards such as the supervision by the government inspector of education, the participation council and - in secondary education - the student charter required by law. The student charter (section 24 (g) of the Secondary Education Act) must in any event contain rules designed to ensure the smooth operation of the institution and protect private data and to make provision for the settlement of disputes. A supplementary instrument at some schools is a confidant with whom a pupil can discuss problems that occur at home or school.

281. A bill is now being prepared to provide clarity for parents and pupils of primary schools, secondary schools and special secondary schools about mutual rights and duties, including agreements about discipline, by means of a school handbook and a complaints scheme. The school handbook sets out among other things the rights and duties of parents/guardians and pupils. If pupils or parents/guardians feel that they have been improperly treated by the school board or by a teacher, they may file a complaint with an independent complaints committee.

282. A campaign entitled "The safe school" was started by the Ministry of Education, Culture and Science in 1995. The aim of the campaign is to ensure that primary and secondary schools adopt a more structured and planned approach to preventing (and tackling) various forms of violence and unsafety in schools. The campaign will last for four years and consists of the development and distribution of instruments for the organization of the school, a number of symposiums, a freephone line (education helpline) and the collection and dissemination of good ideas and information.

283. The Working Conditions Act (Arbowet) has applied to education since 1994. The Act obliges the school board to take responsibility for the safety, health and well-being of the teaching staff, pupils and visitors to the school.

284. At a more general level, the provisions of article 1 of the Constitution are naturally applicable. These prevent discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatever.

6. Paragraph 3 - International cooperation in matters relating to education

285. The Netherlands actively promotes international cooperation in matters relating to education. This international cooperation takes place in many ways and at many levels. There are exchanges of teachers and pupils/students within UNESCO and the European Union; this helps to eliminate prejudice and improve the understanding of relations between the different countries.

286. The internationalization of education was the aim of the SOCRATES Community action programme which started in 1995. This action programme was initiated by the European Union to provide systematic encouragement for the first time of educational innovation in primary education, secondary education and special secondary education. In addition to improving the quality of education, SOCRATES will provide a stimulus for improving the quality of the international cooperation between educational institutions.

287. In primary and special secondary education, internationalization is mainly of relevance to the content of education. Attention is paid to international aspects in the various subjects. International themes are also dealt with on an interdisciplinary basis. Large-scale exchanges are not organized, with the exception of cooperation projects in border areas. In this context, primary schools are also being given an opportunity to provide part of their instruction in French or German on an experimental basis.

288. At secondary level the educational content is being put on an international footing above all by the focus on the international dimension of attainment targets, the development of flow profiles and the formulation or establishment of examination topics. Great importance is also attached to intensification of exchanges in secondary education.

289. As regards access to scientific and technical knowledge, it should be noted that here too the Dutch authorities pursue an active policy. Information technology has been part of a separate incentive policy

since 1984. As a result, computers are now a familiar and accepted instrument in schools. Information and communications technologies (ICT) are of assistance to pupils in consulting computerized databases, using automated data processing and word processing and operating communication and simulation programs.

290. All primary and special secondary schools now have modern computer equipment and digital methods. These developments are carefully monitored and will continue to be encouraged for the time being.

291. Primary education was added to the policy priorities of Dutch development cooperation in 1992.

B. Aims of education (article 29)

1. Paragraph 1

Primary education, secondary education and special secondary education

292. Primary education, secondary education and special secondary education have a number of basic criteria and objectives laid down by law. The law provides that education must be organized in such a way that pupils can undergo a continuous process of development and that this should be geared to the progress of the child's development. Education is in any event aimed at the emotional and intellectual development of children and at enabling them to acquire knowledge and social, cultural and physical skills. It is also a premise of Dutch education that nowadays children grow up in a multicultural society. These points are dealt with in a large number of the subjects at school. For this purpose, quality criteria have been set for the educational provision in primary education and in the basic education given in secondary schools; these criteria take the form of attainment targets.

293. Pedagogic aspects are dealt with explicitly in the school work plan in most primary and secondary schools. In secondary schools they are also covered in the student charter. In both these educational sectors respect for the views and cultures of others are the subjects mentioned most frequently in such documents.

294. As regards the cultural identity, language and values of the child and the national values of the country in which the child was born, Dutch education has a target group policy. Pupils at least one of whose parents is a member of a target group that has a non-Dutch cultural background often receive instruction in their own language and culture at school, usually from teachers from the country of origin.

295. A basic principle of Dutch society and hence of the Dutch education system too is that no distinction is made on the grounds of sex. The policy of the Dutch authorities is to provide equal opportunities for boys and girls. Attention is paid to providing education which helps to break the established role patterns. When the attainment targets for basic education in secondary education are formulated, specific attention is paid to the aspect of promoting equal opportunities for girls. In addition, study and career appraisal is included as a skill target for all subjects. Technology,

information technology and self-sufficiency have also been included in the essential package in basic education. Given the prospect of a reallocation of unpaid work/care responsibilities, the introduction of "self-sufficiency" (social and life skills) as a subject is important for both boys and girls.

296. The attainment targets for the subject of history provide a sufficient guarantee that children will have a knowledge of the national values of the country in which they live. In basic education in secondary schools, instruction in history and civics aims to give children the ability to form their own views of events, trends and issues based on their knowledge of their own values and those of others. Similarly, the geography instruction provided in basic education in secondary schools is aimed at enabling pupils to develop knowledge, skills and understanding that will enable them to function adequately in society both now and in the future. Instruction in geography focuses to a considerable extent on intercultural aspects and on instruction in nature studies and the environment.

297. The aim of the subject of religious movements, which is compulsory in all primary schools and schools for special education, is to provide children with knowledge and information about the principal features of and main differences between religious movements in our multicultural society. Such topics as peace and international cooperation are covered in many schools, in particular as part of intercultural education (usually in the form of projects). The intercultural education project group was established for this purpose in 1995. The function of the project group is to contribute to the further recognition of cultural diversity and to curb discrimination. Respect for the natural environment is dealt with in the subject of nature studies, including biology. The instruction given in biology in the basic education in secondary schools is aimed at developing skills and helping children to determine a position on nature, health and sexuality. Recently, the central government authorities have invested heavily in a number of projects in primary and secondary schools in order to ensure that instruction in nature studies and the environment receives the attention it deserves. At many schools this has indeed resulted in the adoption of a more conscious attitude to this issue.

Vocational education

298. The attainment targets in vocational education are fixed by the authorities for each course or subject, on the basis of a proposal by the national authorities for vocational education. The targets are drawn up by reference to statutory provisions designed to ensure that the courses fulfil three criteria: they provide instruction of a generally formative nature and vocational instruction and tie in with other forms of education. In this way, the general requirements of article 39 are fulfilled.

2. Paragraph 2 - The liberty to establish and direct educational institutions

299. The requirement of paragraph 2 of article 29 of the Convention is fulfilled by the Netherlands as a result of the operation of article 23 of the Constitution. See also the information given in relation to article 30 in section VIII D below.

C. Leisure, recreation and cultural activities (article 31)

1. Paragraph 1 - Right of the child to rest and leisure

300. The Ministry of Education, Culture and Science determines the number of school days and holidays each year. The length and dates of the summer holidays are laid down by the central authorities (except for senior secondary vocational education); the competent authority fixes the length and dates of the other holidays. The summer holiday lasts six weeks for primary schools and schools for special education and seven weeks for secondary schools. In higher education the academic year runs from 1 September to 31 August and tuition lasts on average 42 weeks a year. In primary education a week averages 22 hours of lessons in the first two school years and 25 hours in the last six school years. Not more than 5.5 hours of instruction are given each day. In special education a day also lasts for a maximum of 5.5 hours. The Primary Education Act obliges the competent authority of the school to provide the pupils with an opportunity to stay at school during the lunch break. The costs are borne by the parents of the children who make use of this facility (around 30 per cent of the pupils).

301. In vocational education the rights and duties, including those referred to in article 31, are laid down in an individual contract between the educational institution and the Regional Training Centre. How this is arranged in practice depends on the contractual relationship.

2. Paragraph 2 - Promoting the right of the child to participate in cultural life

302. In addition to the many activities of the existing cultural policy, familiarizing young people with cultural and artistic life is one of the chief aims of Dutch cultural policy in the years ahead. The authorities are making a substantial amount of extra funds available for this purpose. The activities are described below:

(a) Subsidizing arts institutions and activities specifically designed for young people, for example youth theatre, youth films, children's literature, Cinekid, the Youth Theatre Festival, the National Reading Aloud Day and the Bulk Book Day for Literature;

(b) Supporting active participation in the arts by young people, through amateur clubs and in other ways. Examples are music, brass bands, pop music, classical music, dance, theatre and the visual arts. Specific initiatives of this kind are:

(i) The Kunstbende - a nationwide competition for young people in all the arts

(ii) The Great Prize of the Netherlands - a pop music prize

(iii) The Youth Orchestras

(iv) The Schoolchildren's Theatre Festival;

(c) Encouraging professional performing arts institutions and museums to develop activities specifically for young people, especially in cooperation with institutions such as schools, libraries, academies of music and creativity centres;

(d) Encouraging cultural education in primary and secondary schools by including art and culture in the curriculum and strengthening the ties between schools and cultural institutions. A policy paper on "Culture and school" was presented to the Lower House of Parliament in September 1996. This is in addition to existing activities in the cultural field: there is a wide network of special institutions which provide culture-related services to schools. Some schools (around 80) also have an extended school day, in which the extra hours are mainly devoted to education in the arts. The local authorities support public facilities at which young people can immerse themselves in art and culture outside school time. Music schools and creativity centres (around 240 in the Netherlands) provide an open range of courses and the social and cultural work organizations arrange cultural activities for young people.

Sport

303. Sport in the Netherlands is mainly organized privately, either on a voluntary basis (sports clubs) or by sports schools. There are over 30,000 sports clubs which are affiliated with around 60 sports federations or associations. Sport is by far the most popular form of leisure activity among young people. Seventy-six per cent of children in the 12-15 age group are members of a sports club. Handicapped children too like taking part in sport. It follows that a specific element of the sports policy of the central Government involves the creation of sports facilities for children with a physical or mental handicap. For example, support is provided for projects to provide intensive assistance to children with a motor disability and to promote sports activities at schools for mentally and severely mentally handicapped children. The Netherlands Government also promotes activities in the field of sport and play which can be undertaken jointly by handicapped and non-handicapped children either at clubs or in physical education at school. In addition, there are special sports clubs for the handicapped and separate facilities at schools for special education and rehabilitation centres.

304. In 1996 the Netherlands Government launched the "Youth in motion" project. The aim of this project is to promote an active lifestyle in general and participation in sport and exercise in particular. By means of sport and physical education, the Netherlands Government wishes to develop a lifelong liking for sport and exercise among young people and to improve their health, social involvement and social well-being. This is conditional upon young people being able to try out various kinds of sport and exercise suitable to their age through physical education, sport at school and the sports clubs. Children themselves are involved in this project through the choice, organization and implementation of sport and exercise activities. This is done by focusing in education on the skills necessary to supervise and organize sports activities and by involving young people in the coaching and guidance of youth teams.

305. In addition, the Netherlands Government wishes to make children and young people more aware of the effect of their own behaviour on their health and the positive effects of sport and exercise now and in the future. The attitudes of older children tend to be formed at a young age. The policy of the central Government is to formulate a policy framework for this process. This is being elaborated by a project group specially established for this purpose. This group also has a role to play in developing the range of sports and exercise available at local level. The aims of the "Youth in motion" project are being achieved in four ways:

(a) By promoting the quality of physical education and sport (both generally and at school);

(b) By promoting the social involvement and commitment of young people;

(c) By promoting an active and healthy lifestyle;

(d) By promoting social integration.

306. The basis for implementing these separate policies is the establishment of cooperation between schools, sports clubs and other social organizations and the authorities. The function of the project group referred to above is to list the projects and experiments in physical education and sport and to use its findings to devise a nationwide "Youth in motion" campaign which commands the universal support of municipal authorities, school boards, young people, government departments and social organizations involved with young people and sport. A four-year period has been allocated for this project for the time being. The project runs from 1996 to 2000. The activities are being funded from the financial resources for general policy. The "Youth in motion" project is partly intended to maximize the yield and effectiveness of these other resources. In addition, a sum of 300,000 guilders has been made available by the Ministry of Education, Culture and Science; 5 million guilders is provided by the Ministry of Health, Welfare and Sport under the Social Welfare Act (Welzijnswet). In addition, sponsorship will be sought for the work of the project group and the support of the nationwide campaign.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children (article 22)

307. Every minor alien can apply for asylum in the Netherlands, regardless of whether he or she has parents in the Netherlands. A decision on whether a person is a refugee within the meaning of the Convention relating to the Status of Refugees and the accompanying Protocol of 1967 will be taken in each individual case. The Netherlands recognizes only one category of refugee. No distinction is made by age. The asylum procedure is set out in chapter B7 of the 1994 Aliens Circular and contains safeguards.

308. A distinction is made between the following situations:

309. If a child enters the Netherlands with a parent, the parent will generally apply for asylum on behalf of the child too. The family should report to an application centre. There it is decided whether the application for asylum has a reasonable chance of success. If the application for asylum is not dismissed within 24 hours as being manifestly ill-founded or inadmissible, the family will be moved to a reception centre. There they will be interviewed at greater length. Every asylum seeker over the age of 15 is heard. A child in the 12-15 age group is heard only if the child itself or its legal representative explicitly requests this. The applications for asylum of parents and child are assessed together. The child stays with its parents in a reception centre. If the parents are eligible for refugee status or are entitled to remain on other grounds, the children are in principle given the same status as their parents or a residence permit that is dependent on one of the parents. If the parents are not eligible for admission, the child must return to the country of origin together with its parents (unless the child is eligible for a residence permit independently).

310. If a child enters the Netherlands without its parents or adult relatives by blood and/or marriage who are responsible for it, the admission policy for minor asylum seekers entering the Netherlands alone is applicable. This policy has applied since 1 September 1992 and was recorded most recently in chapter B7/13 of the Aliens Circular 1994. It contains specific safeguards for the reception and protection of minor asylum seekers who enter the Netherlands alone. Such asylum seekers must report to an application centre where the registration and intake of all minors takes place. Only minors aged 12 and over may submit an application for asylum at the application centre. Minors under the age of 12 may do so only after custody has been arranged. Ultimately, arrangements for the custody of all children under the age of 17.5 years are made (this takes an average of three months). The minor asylum seekers are transferred from the application centre to a reception centre. They are interviewed at the reception centre. Only children aged 12 and over are questioned about their reasons for applying for asylum. The interview takes place after a period of four weeks has elapsed since the submission of the application for asylum. This gives the child time to acclimatize in the Netherlands. The interview is conducted by officials experienced in interviewing children. During the interview the official concerned seeks to obtain information about the whereabouts of the parents and relatives in the country of origin. Minor asylum seekers who enter the Netherlands alone are interviewed by officials specially designated for this purpose. Improvement of the training of these officials is presently under consideration.

311. The children are assigned in the initial period to a reception centre with special facilities for minors. After arrangements have been made for custody, the person awarded custody (the guardian) is responsible for the reception of the child. The provisions for reception depend on the age and maturity of the child. Young children are generally placed in a foster family. Other children may be placed in separate homes where the extent of the supervision by adults depends on the needs of the children. Efforts are being made to improve the exchange of information between the authorities responsible for the initial reception and the guardian responsible for subsequent reception. A reception method specifically for minor asylum seekers entering the Netherlands alone is

Institute in cooperation with the special reception centres. This project is expected to be completed in the summer of 1997. The basic idea is that the child should be able to resume its ordinary life. Research in the Netherlands has shown that not all such children are traumatized. However, they are all displaced persons. Insofar as specific assistance is necessary, minors in this position qualify for it. The Children's Institute has developed an instrument which can be used to gauge at an early stage whether a child is suffering post-traumatic stress disorder. In general, the aim is to safeguard the continuity of the reception and ensure that it meets the needs of the child as far as possible. The quality criteria laid down in the Youth Services Act are applicable to the performance of the guardianship duties.

312. The applications of unaccompanied minors seeking asylum are assessed - like those of adults - in the light of the criteria for refugee status and compelling reasons of a humanitarian nature. If these criteria are not found to apply, the child may be sent back - alone - to the country of origin or to another country if adequate reception facilities are available. An attempt is made at the outset to reunite the child with its parents or relatives in the country of origin. If this is not possible, other forms of reception may be regarded as adequate (e.g. reception in orphanages or reception by welfare institutions or non-governmental organizations). If it cannot be established within six months of the submission of the application for admission that adequate reception is reasonably guaranteed in the country of origin, a minor asylum seeker who has entered the Netherlands alone may be eligible for a residence permit. Such a permit may be cancelled or not renewed if it is later established that adequate reception is available in the country of origin.

313. The policy with regard to minor asylum seekers entering the Netherlands alone was changed in certain respects in March 1996 in order to prevent improper use of these arrangements. Although the number of minor asylum seekers entering alone appears to be stabilizing in absolute terms, it has in fact risen in relation to the total number of asylum seekers. The main change in March 1996 was the introduction of age screening. If there is serious doubt about the age given by the asylum seeker, he or she may be required to cooperate in an investigation. The consent of the asylum seeker is required for any such investigation. The asylum seeker is carefully informed of the form of the investigation and any consequences of the result. If the investigation shows that the asylum seeker has reached the age of majority, his or her application for asylum is then treated as a normal application by an adult asylum seeker. If an asylum seeker does not wish to cooperate, doubts about his or her age may continue to exist. In such cases an asylum seeker may be designated as an adult if there are other facts and circumstances that confirm these doubts.

314. The Netherlands has made an interpretive declaration concerning article 22 in which it has provided that article 22 does not prevent either conditions being attached to the submission of an application for admission or an application for admission being passed on to a third country if the latter may be regarded as the country having primary responsibility for dealing with the request for asylum. The aim of this declaration is to create clarity. In the case of minor asylum seekers entering the Netherlands

authorities exercise restraint in using the possibility of passing an application for asylum to a third country under the Schengen Implementation Agreement.

315. Educational facilities have been provided for all asylum seekers of school-going age. As all asylum seekers are also insured against medical expenses, they are entitled to almost all medical facilities customarily provided in the Netherlands. In addition, medical care and a TB screening are provided in all reception centres.

2. Children in armed conflicts (article 38)

316. When the Convention on the Rights of the Child was adopted, the Netherlands indicated that the minimum age for recruitment and participation in hostilities as set forth in article 38 should have been higher than 15 years. As party to the Geneva Conventions and both Additional Protocols, the Netherlands recognizes that the prohibition of recruitment under the age of 15 years is part of international law. In the Netherlands, however, the minimum age for both recruitment and participation in hostilities is higher.

317. Until 1993, the Netherlands armed forces consisted of conscript forces and volunteer military personnel. The minimum age of conscription was set at 18 years, but it was possible to perform the required military service voluntarily from the age of 17 onwards provided that permission was given by a parent or guardian. No one under the age of 18 could be drafted into the armed forces involuntarily. Upon ratification of the Convention on the Rights of the Child, the Netherlands also raised the age at which personnel could be drafted into the armed forces in wartime to 18 years. Voluntary enlistment for the purpose of pursuing a military career was possible from the age of 16 onwards and also required permission from a parent or guardian.

318. In 1993, however, the Netherlands armed forces underwent an extensive reorganization. Part of this reorganization entailed the abolition of the obligation to enlist. Conscription itself has not been completely abolished, but will be reinstated only in times of emergency. Nonetheless, this means that the Netherlands armed forces have been transformed from conscript forces to an all-volunteer force since 1993. The minimum age of recruitment was maintained at 16 years of age. Owing to the duration of induction and training, the minimum age for active duty was approximately 17.

319. During the negotiations on an optional protocol to the Convention on the Rights of the Child, it became clear that there was growing international consensus on the need to raise the minimum age of recruitment to 17 years of age and the minimum age of participation in hostilities to 18 years of age. In 1996 the Netherlands therefore modified its recruitment policy and its selection of personnel for peace operations abroad. The minimum age of recruitment is now set at 17 and no one under 18 years of age may be posted abroad for any military operations, including peacekeeping and other international operations, in areas where hostilities are taking place.

3. Help to refugee children (article 39)

320. Refugee children have generally had a succession of traumatic experiences and suffered serious tension as a result of war, imprisonment, displacement, etc. At a WHO meeting in London on the health problems of refugees, it was concluded that repressive and protracted violence, including war and displacement, may be regarded as factors that pose a risk to the health and development of children. The Netherlands Government bases its policy on this WHO position and takes measures to ensure that the emphasis of health care in this connection is put upon timely recognition of the mental problems of refugee children. The teaching staff of schools are trained and helped to detect mental problems and disturbances in the development of children at an early stage and to respond adequately. Information concerning the problems which children are likely to encounter is provided to parents and other persons responsible for children and is of major importance. The aim of this policy is to increase the knowledge and expertise of people providing assistance and care to children in these situations.

321. It has recently been agreed that, since there has been an increase in the number of refugee children passing through the central reception facilities for asylum seekers, families with children showing signs of psychosocial problems should be housed in small reception centres instead of the large-scale centres. Minor asylum seekers who are alone are assigned to a separate reception centre and are placed under custody. The emphasis of the reception is placed on pedagogical guidance and preparing the children for entry into the education system.

B. Children in conflict with the law

1. Due process rights and juvenile justice (Netherlands reservation) (article 40)

(a) Paragraph 1 - Procedure in the interests of the minor

322. A criminal case involving a young person is disposed of without a criminal conviction wherever possible. The police have the power not to proceed with a case if the offence is not serious, the offender is aged between 12 and 18 and has not previously committed an offence and compensation has been or will be paid for the damage. The police may invite the offender and his parents for a serious talk at the police station about the criminal behaviour of the child.

323. In addition, police officials designated for this purpose may dispose of cases involving minor offences, for example traffic offences, committed by minors aged 16 or over by means of a fine agreed in an out-of-court settlement. Prosecution may also be avoided if a minor who has committed an offence is ordered to take part in a project (article 77e Criminal Code). This may involve repairing damage caused during the offence or carrying out simple work of benefit to the community. Certain police officers have the power, in cases designated by law, to make a proposal to the minor concerned to take part in a project. Participation in a project is voluntary. By taking part in a project, an offender can avoid prosecution. However, the participation should be properly enforced.

324. The police are not alone in being able to avoid prosecution of a young person. The public prosecutor also has ways of doing this. Under article 167, paragraph 2, of the Code of Criminal Procedure the public prosecutor may decide that it would be contrary to public policy to prosecute. Such a decision may, for example, be taken if the public prosecutor considers that the imposition of a civil law measure would be more efficient or if the offence is insufficiently serious. A juvenile suspect must be informed of such a decision as quickly as possible.

325. A public prosecutor may invite the young person and his or her parents for a talk at which they will be clearly informed of the seriousness of the situation. The public prosecutor may attach conditions to a decision not to prosecute (article 77f in conjunction with article 74 of the Criminal Code). It follows that the public prosecutor will bring charges after all if the minor concerned does not fulfil the conditions. Such conditions may include:

(a) Paying a fine (maximum of f. 5,000) to the State;

(b) Release of confiscated items;

(c) · Undertaking to act in accordance with the instructions of an institution for the provision of assistance to young people (the family supervision institutions) for a maximum period of six months;

(d) Performance of unpaid work (community service) or attendance at a training course for a maximum of 40 hours. This condition may be imposed only if the minor has so requested. In addition, the public prosecutor requests the child-care and protection board for advice before imposing such a condition.

326. If the public prosecutor considers imposing as a condition the payment of a fine in excess of 250 guilders or an alternative sentence of 20 hours or more, the young person is assigned counsel automatically. If the public prosecutor brings charges (article 167 of the Criminal Code), he should take this decision as quickly as possible. Notice of the summons to the suspect is also given to the parents or guardian and counsel (article 504 of the Code of Criminal Procedure).

327. Since the changes to juvenile criminal law took effect on 1 September 1995, the public prosecutor must inform the young person within two months of the end of the preliminary judicial investigation whether charges will be brought or dropped. This period may be extended by the court. If there is no preliminary judicial investigation but the young person has been remanded in custody, the public prosecutor must once again inform the suspect as quickly as possible after the matter has been clarified whether charges will be brought or dropped (article 245 of the Code of Criminal Procedure). Since 1 September 1995, a young suspect can in principle also file an objection with the district court against a decision of the public prosecutor to bring charges.

(b) Paragraph 2 (a) - Principle of the legality of the accusation

328. Article 16 of the Constitution and article 1 of the Criminal Code provide that no offence is punishable unless it was an offence under the law at the time it was committed.

(c) Paragraph 2 (b) (i) - Principle of the presumption of innocence

329. A fundamental principle of Netherlands law is that a suspect is presumed innocent until proven guilty.

(d) Paragraph 2 (b) (ii) - Right to be informed promptly and directly of the charges

330. A minor suspect is informed at the police station of the charges against him. In principle all summonses, notifications, notices, subpoenas or other written communications to the minor are also sent to the parents or guardian.

(e) Paragraph 2 (b) (iii) - The right to have the matter determined without delay by a competent, independent and impartial authority or judicial body, in a fair hearing according to the law

331. In order to ensure that cases are determined without delay, it is the rule that the police should send an official report to the public prosecution service within two months of the police interview.

332. Cases involving minors are tried by a special judge (the juvenile court judge). If the case is heard by a multi-judge chamber, the juvenile court judge sits as a member of the chamber (article 495, paragraph 3, of the Code of Criminal Procedure).

333. Article 6 of the European Convention on Human Rights provides that courts must hear criminal cases within a reasonable time. What is a reasonable time depends on the circumstances of the case. For example, the complexity of a case must be taken into account.

334. A minor is entitled to be assisted by a counsel under the legal aid scheme (article 489 of the Criminal Code). Counsel is assigned automatically where the case is tried by a district court. Where the case is heard by a subdistrict court judge counsel is not assigned in all cases. The Netherlands has made a reservation in this connection. If criminal cases are tried by the subdistrict court judge, legal assistance may, on request, be provided by the Legal Aid and Advice Centre. However, such assistance is not without charge. It is necessary to avoid a situation in which summary (i.e. minor) offences can be tried only in the presence of counsel. The Netherlands therefore feels obliged to maintain the reservation made at the time of ratification.

335. The parents or guardian are summoned to attend the trial. They are given the opportunity at the trial to put forward a defence on behalf of their child against certain statements (article 496 of the Code of Criminal Procedure).

(f) Paragraph 2 (b) (iv) - The rights not to be compelled to give testimony or to confess guilt, examine adverse witnesses and obtain participation of witnesses

336. In all cases in which a minor is heard as a suspect the judge or police officer conducting the hearing refrains from doing anything which could be construed as obtaining a statement that cannot be said to have been made freely. A suspect is not obliged to answer questions. He is informed of this before the hearing starts (article 29 of the Code of Criminal Procedure).

337. A juvenile suspect has the same rights as adult suspects in relation to witnesses. This means that a minor and his counsel may put questions to witnesses. They also have the opportunity to respond to evidence given by witnesses. In addition, a minor may object to certain questions being asked. At the request of the suspect, the presiding judge may confront witnesses with each other (see articles 184-192 of the Code of Criminal Procedure).

(g) Paragraph 2 (b) (v) - Right to remedies at law

338. The majority of offences are tried by a subdistrict court judge. Appeal against the judgment of a subdistrict court judge is limited to cases in which a fine of 50 guilders or more is imposed. In such cases, a minor who has been convicted may appeal in cassation. However, such an appeal does not involve a fresh assessment of the conviction or the sentence and is instead restricted to the question of whether the law was properly applied. Since it is not considered desirable that an appeal on the facts should be possible in cases involving a fine of not more than 50 guilders for a summary offence, a reservation has been made in this respect. The Netherlands feels obliged to maintain the reservation made at the time of ratification. Appeal always lies against a decision of a juvenile court judge.

339. A minor suspect may request the court to suspend or terminate a remand in custody. A minor requesting this for the first time may appeal against a refusal (article 87 of the Code of Criminal Procedure).

(h) Paragraph 2 (b) (vi) - Right to an interpreter

340. A minor is entitled to free assistance of an interpreter if he or she cannot understand or speak the language used.

(i) Paragraph 2 (b) (vii) - Right to respect of privacy

341. A case against a minor is not tried in public. The presiding judge of the court may admit certain persons to the trial. In addition, the presiding judge may order that the case be heard in public if the interests of a public hearing outweigh the suspect's interest in ensuring the protection of his privacy (article 495b of the Code of Criminal Procedure).

(j) Paragraph 3 - Specific provisions in the Code of Criminal Procedure and the Criminal Code governing minors

342. Both the Code of Criminal Procedure and the Criminal Code contain specific provisions governing minors aged 12-18 (see Part II of Title II of

Book 4 of the Code of Criminal Procedure and Title VIIIA of Book 1 of the Criminal Code). The judge may apply adult criminal law to young suspects who were over the age of 16 or 17 at the time of the commission of the offence if this is in his view warranted on account of the seriousness of the offence, the personality of the offender or the circumstances under which the offence was committed.

343. A child under 12 cannot be prosecuted under the criminal law. However, a minor may be arrested by the police and taken to a police station for questioning. The police may also confiscate property. The legal representatives of a minor, usually the parents, may object to a confiscation (articles 486 and 487 of the Criminal Code).

344. The child-care and protection board is informed without delay if a child is held in police custody (article 491 of the Code of Criminal Procedure). The board may then provide assistance to the person concerned at an early stage. The board may report its findings to the public prosecutor. The public prosecutor must take account of the content of this report when deciding whether the minor should be remanded in custody.

(k) Paragraph 4 - Ensuring that children are dealt with in an appropriate manner by obtaining information about the personality and circumstances of the child

345. A public prosecutor who is involved in a case involving a juvenile must always apply to the child-care and protection board for information about the personality and circumstances of the suspect. Only where the public prosecutor decides unconditionally not to prosecute or where the case is brought before the subdistrict court judge is there no requirement to obtain this information (article 494 of the Code of Civil Procedure). It follows that the public prosecutor also consults the child-care and protection board if he considers not prosecuting subject to the imposition of conditions (see the above notes on paragraph 1). If a young suspect has been remanded in custody or has been assigned to a psychiatric institution for assessment of his mental state, the public prosecutor must inform the child-care and protection board. The board may at any time make recommendations to the public prosecutor of its own volition. To enable the board to exercise this power, the public prosecutor must send all official reports relating to the case to the board. The examining magistrate may also obtain information from the child-care and protection board.

346. If the judge decides during the trial that an inquiry into the personality and circumstances of the suspect is necessary, he may request the child-care and protection board to provide further information. The case is adjourned until the board has prepared a report.

347. The judge may pass a suspended sentence on a minor. In such a case the judge directs that a sentence or measure imposed by him will not be executed provided that the minor concerned does not commit a further offence and observes the conditions imposed by the judge during a given period, which should not in principle exceed two years. The conditions which the judge imposes relate to the behaviour of the minor and are connected with the offence committed. Another condition which may be imposed is that the

offender arranges to be admitted to a given institution. The judge may instruct certain social workers to help ensure that the conditions are observed. If the conditions are not observed, the judge may decide that the imposed sentence should be executed after all.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (Netherlands reservation) (article 37 (b), (c), and (d))

348. Article 1 of the Code of Criminal Procedure provides that prosecutions are brought only in the manner provided for by law. Deprivation of the liberty of a child is therefore possible only in accordance with the law. The police may detain a suspect in custody if the child concerned is suspected of having committed an offence for which remand in custody is permitted and it is in the interests of the investigation that the suspect be held for questioning (article 57 of the Code of Criminal Procedure). The police custody lasts for three days. This period may be extended once for a further three days on the grounds of urgency. As soon as the interests of the case permit this, the police must release a child from their custody.

349. If the public prosecutor considers it necessary that a juvenile suspect be held for longer, he may apply to the examining magistrate for a remand in custody order (article 63 of the Code of Criminal Procedure). Before giving an order for remand, the examining magistrate hears the suspect. The remand lasts for a maximum of 10 days. Afterwards the district court may issue an order for detention in custody. Here too a suspect who is a minor is heard in advance. An order for detention in custody issued by the district court may last for a maximum of 90 days (including renewals).

350. A minor who has been detained in police custody or remanded in custody may be committed to any suitable place (article 493 of the Criminal Code). It is, for example, conceivable that a minor in police custody would be kept not at a police station but in an another place that is more suitable for the minor in question. Remands in custody are usually served in youth custodial institutions. Children are separated from adults. Minors serving a term of youth detention are assigned to youth custodial institutions. Nonetheless, the Netherlands has made a reservation allowing adult criminal law to be applied to children aged 16-17 in certain circumstances. The Netherlands feels obliged to maintain this reservation made at the time of ratification of the Convention.

351. If youth detention is imposed, the judge makes a recommendation when sentencing as to how and where the sentence should be served (article 77v of the Criminal Code). The Minister of Justice ultimately decides where the sentence should be served. In doing so, he takes account of the judge's recommendation, the wishes of the person having parental authority or custody of the child, and the religious belief or philosophical convictions of the young person. The Minister of Justice may obtain the advice of the child-care and protection board concerning the place where the sentence should be served. A convicted minor may appeal against the decision of the Minister of Justice.

352. Placement in a youth custodial institution also deprives a convicted minor of his liberty. The judge may impose a heavy sentence of this kind only if there has been a serious offence, a custodial sentence is necessary to protect the safety of other persons and the measure is in the interests of the development of the minor. Before imposing such a measure, the judge must be advised on the case by two behavioural experts from different disciplines. The measure lasts for a maximum of four years, unless it has been imposed on account of a mental disorder of the minor. In the latter case, the maximum duration is six years. If the judge imposes the measure, he makes a recommendation (as in the case of youth detention) as to how and where the measure should be executed. The Minister of Justice decides on the execution. Usually, the Minister directs that i· be served in an institution where treatment can be provided. The convicted person may also appeal against this decision. The measure ends when the intended object has been attained.

353. A young person who is kept in a custodial institution may receive education or employment training. Wherever possible account is taken of the wishes of the offender. A young person may receive visitors and write letters to or receive them from any person. In certain cases the contents of a letter may be censored by the authorities. Correspondence between a young person in custody and his counsel or parents is never checked.

354. The decision on whether a minor should be convicted of committing a criminal offence is taken by a judge. The less serious offences - the summary offences - are tried by a subdistrict court judge. A minor is entitled to legal assistance. In cases where the court so orders, this legal assistance is free. A minor is entitled to be assisted by counsel during questioning at a police station (article 57 of the Code of Criminal Procedure). A minor is also entitled to the assistance of counsel throughout the term of police custody. If the minor continues to be detained even after the police custody, he is entitled to counsel who will assist him throughout the remainder of the proceedings (article 489 of the Code of Criminal Procedure). This may be the same counsel who assisted the suspect during the police custody, but this is not necessary.

3. Prohibition against torture or inhumane treatment (article 37 (a))

355. The policy of the Netherlands police on this subject has already been discussed in section IV.

4. Use of coercion in providing help (article 39)

356. The Psychiatric Hospitals (Compulsory Admission) Act (Bijzondere opnemingen in psychiatrische ziekenhuizen) took effect early in 1994. This Act replaces the former Lunacy Act (Krankzinnigenwet) of 1884 and regulates compulsory admissions to mental hospitals. A new element of the legislation introduced in 1994 is the provision governing the legal status of young people during an involuntary admission. Under the Lunacy Act this was not regulated. However, under the new legislation young people (aged 12 and over) have the same legal protection as adults. This means that young persons over the age of 12 have a right to information about their treatment, that treatment can be given only with their consent, and that they may submit complaints and are entitled to certain freedoms during their involuntary stay in an institution.

A current review of the Psychiatric Hospitals (Compulsory Admission) Act is examining whether the proposed objectives of the Act (strengthening of the legal protection afforded to the patient during a compulsory admission) have been achieved or whether there are also undesirable side-effects. This review also includes the application of the legislation to psychiatric institutions for children and young people.

357. In December 1996 the committee established to evaluate the Psychiatric Hospitals (Compulsory Admission) Act published a report of its first evaluation of the Act. The committee noted that it was still the case that only a very small proportion of the admissions to psychiatric institutions for children and young people were involuntary. One of the reasons for this was that on therapeutic grounds these institutions tried to avoid compulsory admissions wherever possible. The evaluation committee therefore concluded that no opinion could yet be expressed on the suitability of the criteria for compulsory admission to these institutions under the Psychiatric Hospitals (Compulsory Admission) Act. Besides the criteria for compulsory admission, the Act also regulates the rights of young people during their stay in psychiatric institutions to which they have been admitted compulsorily. Measures involving the use of coercion or the restriction of liberty may be applied only to young people admitted compulsorily - and then only subject to strict conditions egulated in the Act. However, the evaluation committee noted that in practice these institutions contravened the provisions of the Act in this respect. Measures involving the use of coercion or the restriction of liberty were applied for pedagogic reasons, regardless of whether or not the admission was compulsory. The evaluation committee considers that the implementation of the Psychiatric Hospitals (Compulsory Admission) Act and its application in practice should be studied anew in the next evaluation. The Netherlands Government is presently preparing its response to these findings, which it will publish in mid-1997.

C. Children in situations of exploitation

1. Economic exploitation, including child labour (article 32)

General

358. In general the forms of labour referred to in article 32 are prohibited in the Netherlands. Indeed, the basic principle of Dutch legislation is that child labour is prohibited. This is evident in section 3:2, subsection 1, of the Working Hours Act (Arbeidstijdenwet) (Act of 23 November 1995 containing provisions regulating work and rest periods). This section provides that the person responsible for a child should ensure that a child under the age of 16 does not perform work. The same Act makes a number of exceptions, which are discussed below. However, even these exceptions fall outside the scope of the harmful forms of work referred to in paragraph 1 of article 32. In this connection, it is perhaps important to distinguish between the legislation in force prior to 1 January 1996 and that in force since 1 January 1996.

Legislation and secondary legislation

359. The Factories Act (Arbeidswet) 1919 applied before 1 January 1996. Section 9 of the Act - the so-called Young People's Charter - regulated the

prohibition of child labour. In addition, the Working Conditions Act (Arbowet), which came into force in two stages (the first in 1983 and the second in 1988) contained provisions concerning the provision of information and instruction to young employees (section 7) and guidance of such employees (section 8) within an employment organization. The Factories Act and the Working Conditions Act together formed a complex body of orders and prohibitions governing the performance of work by children and young people. Exceptions, exemptions and dispensations were also possible, depending on the age of the child and the nature and type of work. Mention should be made in this connection of the Employment of Young Persons Decree (Arbeidsbesluit Jeugdigen), which implements the provisions of section 9 of the Factories Act 1919. This decree will be repealed when the Working Conditions Decree takes effect (around May 1997).

360. The Working Hours Act referred to above took the place of the Factories Act on 1 January 1996. This has brought about a slight relaxation of the rules. The prohibition of child labour is now regulated in section 3:2 of the Working Hours Act. This Act defines a "child" as a person under the age of 16 and defines work as including the activities of a child in performance of a contract. Exceptions to the prohibition of child labour exist. These are:

(a) Work not performed during school time:

(i) Work as part of an alternative sanction imposed by a judge on a child aged 12 or over;

(ii) Non-industrial work of a light nature performed by a child aged 13 or over;

(iii) Work consisting of the delivery of morning papers by a child aged 15 or over.

(b) Work of a light nature performed by a child aged 14 or over in so far as this work is performed in addition to or in connection with education.

361. These exceptions are subject to rules contained in the Child Labour Regulations (published in the Netherlands Government Gazette, No. 246, of 19 December 1995). These Regulations govern the maximum lengths of employment and the minimum rest breaks in weeks when children attend school and weeks when they are on holiday (for details see "Info: The prohibition of and exemptions from child labour"). Both the parents/carers and the employer are liable (under criminal law) for observance of the provisions of the Act and the subordinate legislation.

362. Under section 3.3 of the Act, exemptions may be granted "in respect of the performance by a child of work consisting of participation in any show of a cultural, scientific, educational or artistic nature, in fashion shows or in audio, visual or audiovisual recordings and other comparable non-industrial work of a light nature". Policy rules are laid down in section 3:3, subsection 2. These rules were published in the Netherlands Government Gazette, No. 246, of Tuesday 19 December 1995. The Employment Inspectorate

takes account of the policy rules when deciding on a request for exemption. The policy rules distinguish between the age categories of under 7 years and 7-13 years. The distinction concerns:

(a) The different work and rest periods for the two age groups and the days on which children may take part in performances, the number of performances per unit of time and the conditions on which they may take part in performances;

(b) The "prior work" (i.e. the rehearsals);

(c) The conditions attached to the exemption.

Enforcement policy

363. The supervision is regulated in section 8.1 of the Working Hours Act. The Employment Inspectorate is responsible for enforcement of the Act. This means that 400 inspectors throughout the Netherlands are competent to make on-the-spot inspections to ascertain whether businesses are complying with the law. To give an indication of the results of such inspections, it is perhaps useful to mention some data produced by the activities of the Employment Inspectorate in the period from 1 January 1995 to 17 October 1996. During this period 59 appointments were made with businesses to discuss the employment of children. They resulted in five warnings and the preparation of an official report in five cases.

Estimate of number of working children

364. No precise figures can yet be given about the number of working children in the age categories of 13, 14 and 15 years since the above-mentioned Act (which necessitates research by reference to these age categories) did not come into force until 1 January 1996. However, the following rough figures can be obtained from a study carried out by the Advisory Agency for Regional Economy and Local Development in 1990/1991:

(a) 63 per cent of young people in the 13-18 age group worked in the period from March 1989 to March 1990; this work varied from delivering newspapers and freesheets to shop work and farm and horticultural work;

(b) 64 per cent of these working children performed "substantial work", i.e. they worked either for two hours a day on at least three school days a month or for five hours a day on at least two free days a month, or they worked at least three weeks in the summer holidays or two days in a holiday at some other time of the year;

(c) 61 per cent of these children were male and 39 per cent were female.

The figures for the various age categories were: 13-14 years: 15 per cent; 15 years: 37 per cent; 16-17 years: 48 per cent.

2. Drug abuse (article 33)

365. Article 33 obliges the States parties to take appropriate measures to protect children from the illicit use of narcotic drugs and psychotropic substances and to prevent the use of children in the illicit production and trafficking of such substances. Since this problem is of a general nature and is not confined to children, such acts are made criminal offences for everyone, both adults and children, under Dutch legislation. This is regulated in the Opium Act (Act of 12 May, Stb. 167). The Netherlands is a party to the Single Convention on Narcotic Drugs which was concluded at New York on 30 March 1961, to the Protocol Amending the Single Convention which was concluded at Geneva on 25 March 1972, to the Convention on Psychotropic Substances which was concluded in Vienna on 21 February 1971 and to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was concluded in Vienna on 20 December 1988. Laws ratifying and implementing these conventions have been passed and taken effect.

366. The primary aim of Dutch drugs policy is to protect public health. The policy is based on two criteria: enforcement of the Opium Act and prevention and assistance. The main objective is to minimize the risks entailed by drug abuse to the users themselves, to people in their immediate vicinity and to society as a whole. To facilitate the effective enforcement of the Opium Act, new guidelines issued by the council of procurators general (senior prosecutors) in respect of the investigation and prosecution of offences under the Opium Act took effect on 1 October 1996. The guidelines contain special provisions concerning minors. For example, the sale of drugs to minors and trafficking in the vicinity of schools are treated as factors that aggravate the offence and result in a heavier sentence.

367. Various social and educational measures have been taken in respect of drug abuse among children. For example, there have been advertising campaigns, educational projects and assistance aimed specifically at children. In addition, the Netherlands pursues an active policy on the provision of health information and educational material. The basic premise in the provision of information about drug abuse to children in schools is that this should not be separated from information about other forms of high-risk behaviour, for example use of alcohol and tobacco, and that it should be dealt with in the same context. At primary school level, this general information is integrated into the material classified as "promoting healthy behaviour". At secondary school too, this general approach is used to focus attention on risky behaviour.

368. Dozens of prevention programmes have been established and implemented in the Netherlands in recent years, the majority of them aimed at young people (12-18 years). The interaction between young people and their parents and others responsible for raising them is vigorously promoted in these programmes. A special project was established for secondary schools in 1991. The aim of the project is to provide schoolchildren with information about tobacco, alcohol, drugs and gambling at the age at which they first tend to come into contact with the substance in question. Besides the provision of information, the project also covers the introduction of rules (no use of these substances at school), monitoring and counselling. In addition,

various prevention activities designed specifically for the various target groups are arranged, for example projects for young people who regularly attend house parties and for homeless young people. Efforts are made to improve the residential environment in problem districts by activities designed specifically for the districts in question. The voluntary organizations, police and neighbourhood groups cooperate in these activities.

369. The prevalence of drug use among secondary school pupils in 1993 was as follows:

Drug	% used in the past	% used in the last month
Cocaine	1.5	0.4
Heroin	0.7	0.2
XTC	3.3	1.0
Amphetamines	2.1	0.6
Cannabis	13.5	6.5

The use of drugs among young people who are not in ordinary education does not differ markedly from these figures. However, homeless young people are an exception.

3. Protection against sexual exploitation and sexual abuse (article 34)

New legislation on sexual offences

370. The new legislation on sexual offences took effect on 1 December 1991. Under this legislation the criminal provisions governing sexual offences were improved and updated. Since then three more important changes have been made to the law, namely to the provisions concerning the trade in human beings, the time limit for prosecutions of sexual offences, and child pornography. In brief, the Dutch legislation on sexual offences is as follows:

(a) Compelling a person by the use of violence or other act or by the threat of violence or other act to submit to acts consisting or partly consisting in the sexual penetration of that person's body carries a term of imprisonment not exceeding 12 years or a fine not exceeding f. 100,000 (article 242 Criminal Code);

(b) The commission with an unconscious, powerless or disturbed person of acts consisting or partly consisting in the sexual penetration of that person's body carries a term of imprisonment not exceeding eight years or a fine not exceeding f. 100,000 (article 243 Criminal Code);

(c) The commission with a person under the age of 12 years of acts consisting or partly consisting in the sexual penetration of that person's body carries a term of imprisonment not exceeding 12 years or a fine not exceeding f. 100,000 (article 244 Criminal Code);

(d) The commission - outside marriage - with a person aged between 12 and 16 years of indecent acts consisting or partly consisting in the sexual penetration of that person's body carries a term of imprisonment not exceeding eight years or a fine not exceeding f. 100,000 (article 242 Criminal Code). In this case a prosecution may be brought only if the victim, the legal representative of the victim or the child-care and protection board has filed a complaint, i.e. expressed a wish for prosecution (article 245 Criminal Code);

(e) The commission of indecent acts with an unconscious, powerless or disturbed person or the commission of indecent acts - outside marriage - with a person aged between 12 and 16 years or the inducing of such a person to commit or permit such acts with a third party - outside marriage - carries a term of imprisonment not exceeding six years or a fine not exceeding f. 25,000. Here too, an offence against a minor may be prosecuted only if a complaint has been filed (article 247 Criminal Code);

(f) Compelling a person by the use of violence or other act or by the threat of violence or other act to commit or permit indecent acts carries a term of imprisonment not exceeding eight years or a fine not exceeding f. 100,000 (article 246 Criminal Code);

(g) Intentionally inducing a minor of unimpeachable conduct, by gifts or promises of money or goods, by abuse of a position of authority arising from actual relations or by deception, to commit indecent acts with - or to permit the commission of such acts by - the offender carries a term of imprisonment not exceeding four years or a fine not exceeding f. 25,000. This offence too may be prosecuted only if a complaint has been filed (article 248 ter Criminal Code);

(h) Having sexual intercourse with a minor who is under the authority of the offender or has been entrusted to the offender for the purpose of care, education or vigilance carries a term of imprisonment not exceeding six years or a fine not exceeding f. 25,000 (article 249 Criminal Code);

(i) Intentionally procuring or inducing the commission of sexual intercourse by a minor entrusted to the care of the offender, or by a minor whom the offender knew or should have known to be a minor, with a third party carries a term of imprisonment not exceeding four years or a fine not exceeding f. 25,000 (article 250 Criminal Code);

(j) Making a profession or habit of intentionally procuring or inducing the commission of sexual intercourse by other persons with a third party carries a term of imprisonment not exceeding one year or a fine not exceeding f. 10,000 (article 250 bis Criminal Code);

(k) Trafficking in human beings (article 250 ter Criminal Code, see below);

(l) Child pornography (article 240b Criminal Code, see below).

371. What the system outlined above means in practice is as follows:

(a) Sexual intercourse with a person under 12 is a criminal offence;

(b) Sexual intercourse with a person aged between 12 and 16 years - without violence, coercion, deception or the existence of a relationship of dependence - is a criminal offence, but a prosecution may be brought only if a complaint has been filed;

(c) Sexual intercourse with a person aged between 16 and 18 years - without violence, coercion, deception or the existence of a relationship of dependence - is not a criminal offence;

(d) Sexual intercourse - without violence or coercion - with a person aged over 18 is not a criminal offence;

(e) Prostitution is not in itself a criminal offence;

(f) Making a business of prostitution and procurement are criminal offences. In practice, offenders are generally prosecuted only if there has been coercion or minors are involved;

(g) Trafficking in human beings, including children, is a criminal offence;

(h) Acts involving child pornography are criminal offences;

(i) Dutch criminal law is applicable if the offence is committed in the Netherlands. Dutch criminal law is also applicable to a Dutch national who has committed outside the Netherlands an indictable offence under Dutch law which also constitutes an offence in the country where it is committed.

372. A study was made of the functioning of the new legislation on sexual offences introduced in 1991. The study, which was entitled "Better and adequate protection provided by the new legislation on sexual offences? A survey to evaluate the effects and effectiveness of the new legislation on sexual offences", was performed by the Verwey-Jonker Institute in December 1994. The main conclusion of the report was that although the new legislation itself did afford the scope for better protection, the new rules were still not being properly applied. The Government has accepted these findings and announced measures to improve the application of the law in practice.

373. A further study was initiated in 1996 into the functioning of the requirement that a complaint be filed in the case of certain offences. This requirement existed even before the introduction of the new legislation on sexual offences with regard to the then article 245 of the Criminal Code (extramarital intercourse with a woman aged between 12 and 16 years) and article 248 ter of the Criminal Code (inducing a minor of unimpeachable conduct to engage in indecent acts). The study has been commissioned mainly to determine whether the present requirement of a complaint is an obstacle to the effective combating of the sexual abuse of children, including child prostitution and sex tourism. One of the questions may be whether, in the

event that the requirement of a complaint is dropped wholly or partly, the underlying aim of this requirement - namely to achieve a balance between the protection of children from sexual abuse and the protection of the sexual freedom of children from government interference - could equally well be achieved by the pursuance of a sensible policy on the investigation and prosecution of sexual offences. Whether the complaint requirement needs to be altered depends in part on the findings of this study. Another issue that will be considered at the same time is whether it would be desirable to raise the age from 12 to 14 years.

Trafficking in human beings

374. Trafficking in human beings involves the procurement of a person - by violence, threats of violence, abuse of authority, or deception - to engage in prostitution. The old provision making it a criminal offence to trade in women or in minors of the male sex was replaced on 1 February 1994 by a new offence of trafficking in human beings (new article 250 ter Criminal Code). This includes the trade in children. The sentence has also been increased (six/eight years or a fine of f. 100,000).

375. Trafficking in human beings is defined as follows:

(a) The procurement of another person - by violence or other act, or by threat of violence or other act, or by abuse of actual relations resulting from a position of authority or by deception - to engage in prostitution, or the commission of any act in the above-mentioned circumstances which the offender knows or may reasonably be expected to assume will result in the other person being engaged in prostitution;

(b) Procuring, taking or abducting a person with a view to that person engaging in prostitution in another country;

(c) Putting a minor to work in prostitution or committing any act in relation to a minor which the offender knows or may reasonably be expected to assume will result in the minor being engaged in prostitution.

376. A high priority is given to measures to combat trafficking in people. Clear guidelines have been issued by the council of procurators-general (senior prosecutors) on how to tackle such trafficking effectively. The three aims of the policy on the investigation and prosecution of this offence are (a) to close down the organizations responsible for trafficking in people; (b) to protect the victims; and (c) to confiscate the profits.

Prescription in the case of sexual offences

377. An amendment to the rules governing prescription in the case of sexual offences took effect on 1 September 1994. Research had shown that children who had been sexually abused often needed considerable time to come to terms with the traumas they had endured and to be able to talk about them. It followed that there was a real likelihood that a prosecution would be barred by prescription by the time the offence became known. The rules of

prescription have therefore been relaxed. In the case of sexual offences committed against minors the period of limitation starts to run only when the victim reaches the age of 18, and not when the offence was committed.

Child pornography

378. Article 240b of the Criminal Code was radically amended on 1 February 1996 to increase the effectiveness of the measures taken to combat child pornography (sentence: four/six years; fine of f. 100,000). Any person who distributes, publicly exhibits, produces, imports, conveys in transit, exports or stocks any pictorial representation of a sexual act involving a person who has clearly not yet reached the age of 16 years - or data medium containing such a representation - commits a criminal offence.

379. The central aim of the legislation on child pornography is to protect children under 16 from sexual violence or abuse. The law is concerned with sexual acts which - if recorded - could have a harmful effect on the minor either because the commission of the act is itself harmful or because of the publication of the material. Prosecutions focus especially on the commercial and professional production, distribution and large-scale bartering of such material. Guidelines have been issued by the procurators-general (senior prosecutors) to the police and public prosecutions service for use in the investigation and prosecution of cases involving child pornography. The operation of the new rules will be evaluated. Only then will it be possible to determine whether there is a need in practice for possession - rather than stocking (which assumes possession of numerous items) - of child pornography to be made a criminal offence and whether the scope of the provision should be extended to include simulated (virtual) sexual acts rather than just real acts.

Data bank of DNA profiles of sex offenders

380. The Forensic Laboratory is currently making preparations for the establishment of a national data bank of DNA profiles. The main aim of the present legal rules on DNA investigations in criminal cases is to enable the truth to be established in a particular criminal case. A study is now being made to ascertain whether these rules provide sufficient scope for the detection of sex offenders and for the establishment of a data bank of this kind to aid investigations.

Extension of the applicability of Dutch criminal law

381. Article 5, paragraph 1 (2), Criminal Code, provides that Dutch nationals who have committed sex offences outside the Netherlands can be prosecuted in the Netherlands. The conditions are that the offence in question is classified as an indictable offence in the Netherlands and that it is also a criminal offence in the country where it is committed.

382. It had been urged that the applicability of Dutch criminal law should be extended. The reason given is that the legislation on sexual offences is still deficient in a number of countries and that the condition of double criminality as contained in article 5, paragraph 1 (2), Criminal Code can be an obstacle to the prosecution in the Netherlands of Dutch nationals who have

committed sex offences in these countries. For the time being, the Government sees no occasion to extend the scope of application of the criminal law to include sex offences committed by Dutch nationals abroad which do not constitute criminal offences in the countries where they are committed. The main reason for preserving the requirement of double criminality is that the possibility of bringing a prosecution in the Netherlands is partly dependent on the cooperation of the relevant authorities in the country concerned. Their assistance is of great importance in the collection of evidence. Prosecutions are already difficult and would undoubtedly become even more difficult if the act in question were not a criminal offence locally.

383. The declaration adopted at the World Congress against Commercial Sexual Exploitation of Children held in Stockholm calls upon countries to introduce legislation to bring sexual offences against young people within the ambit of the criminal law. This is of essential importance if the Netherlands is to be able to take effective action in practice against Dutch nationals who commit these offences abroad.

Combating sex tourism

384. The use of the criminal law to combat sex tourism is receiving special attention. The aim is to ensure that Dutch nationals who have sexually abused children abroad can be tried when they return to the Netherlands. After consultation with the Thai and Philippines delegations to the Stockholm Congress, the Netherlands delegation pointed out that it was important that the authorities in the Netherlands be informed by the authorities in other countries of sex offences committed there by Dutch nationals. Two Dutch nationals have already been convicted in the Netherlands of sex offences committed in the Philippines.

Trade in video tapes depicting naked children

385. The question has been raised of whether - and, if so, how - the Government can act to stamp out the trade in video tapes showing children on beaches and nudist beaches. Video recordings are being made of naked children without the consent of their parents and/or the children concerned. These recordings are being copied and then distributed through the retail trade or informal networks. Nor has consent been given for the copying and distribution. The video tapes in question do not contain pictorial representations of the kind referred to in article 240b Criminal Code on child pornography.

386. Under section 21 of the Copyright Act, publication of a portrait made without a commission - which is what these video shots are - is not permitted if this would be contrary to the reasonable interests of the person shown in the portrait. In the present cases, there can be no doubt that the children shown in the tapes have a reasonable interest in preventing publication of the tapes. It follows that the children in question and/or their legal representatives may apply to the civil courts for an injunction under this provision (in conjunction with sections 28 and 29 of the Copyright Act) restraining publication of the tapes and ordering their destruction. This could possibly be enforced by the imposition of pecuniary penalty to apply where the injunction is breached if it is clear who is distributing the tapes.

However, this procedure will often be ineffective since the publication may not come to the attention of the injured party until much later, if ever. There is real likelihood that by this time many copies will have been distributed. At this juncture the injured party will be in the unenviable procedural position of being faced with many distributors.

387. Under section 35 of the Copyright Act publicly exhibiting or otherwise publishing a portrait without being entitled to do so is a summary offence carrying a category 4 fine. The public prosecutions service will then have to prove that there is a reasonable interest in preventing publication. Such proof would generally have to take the form of an information brought by or on behalf of the person depicted in the tape. But the identity of the person is often not known.

388. It is these problems which have prompted the public prosecutions service in Amsterdam to suggest that the public prosecutions service itself should be entitled to institute civil proceedings independently on behalf of the injured parties. The Government's policy paper on law enforcement and safety (entitled "In juiste verhouding) examines the use of private law as an instrument of enforcement (Parliamentary Papers II, 1995-1996, 24 802, No. 2, p. 63 ff.). It includes a section dealing with the role which the public prosecutions service could play in this connection. The Government doubts whether the mere fact that a criminal offence has been committed against an individual citizen would provide a sufficient ground for action by the public prosecutions service under private law. The basic premise should be that where proceedings are possible under private law it is up to the individual concerned to institute them. Any other approach would place an excessive burden on the law enforcement agencies. There is, after all, a danger that individuals would make increasing demands on the public prosecutions service, even in cases where no public interest would be served by enforcement and it would be reasonable for the person concerned to bear the costs of enforcement.

389. The Government has therefore concluded that if the public prosecutions service (or another body) is to be given a separate power to institute proceedings under private law in order to enforce the criminal law the power should in any event be formulated restrictively. The creation of a statutory basis for private law action by the public prosecutions service to enforce the criminal law or parts of it is therefore not opportune at the present time.

390. However, since the interests at stake here are especially deserving of protection, the Minister of Justice believes that there should be further examination of what steps can be taken to prevent these serious and grave breaches of the portrait rights protected by the Copyright Act. First of all, it is necessary to examine what scope exists for criminal proceedings to be brought under the Copyright Act. If it should transpire that there is insufficient scope for such action, the public prosecutions service and the State advocate could together examine whether there are sufficient grounds for a test case under civil law. As the case law stands at present, there are no absolute obstacles preventing the public prosecutions service from suing as plaintiff in civil law proceedings.

Prevention

391. Prevention involves both preventing breaches of the law (primary prevention) and preventing recidivism. A number of measures could be used for this purpose.

392. Offences can be prevented by:

(a) Taking sex out of the realms of the taboo by incorporating sexual matters in the curriculum dealing with behaviour and health at all levels of education from primary school to university;

(b) Provision of better information, particularly that help for sexual problems can be sought at an early stage (basic health care);

(c) Prevention of closed forms of cohabitation whose members have little contact with the outside world.

393. Recidivism can be prevented by creating a network of treatment facilities throughout the country. Facilities for in-patient treatment of a compulsory nature (i.e. for people serving hospital orders) would be the last and most serious category. The network could include not only out-patient clinics for the treatment of sexual problems but also forensic polyclinics and day treatment centres of the kind provided partly by teaching hospitals and partly by institutions for persons serving hospital orders.

394. It should be remembered in this connection that these treatments can often not take place purely on a voluntary basis since sex offenders usually lack any intrinsic motivation to undergo treatment. The only way of ensuring that they submit to treatment is therefore to have a legal power to compel them to do so. The "big stick" which can be wielded where the voluntary approach fails may vary from suspension of remand in custody to in-patient care under a hospital order. The system of Dutch criminal legislation makes provision for this: a sliding scale is possible depending on the gravity of the offence and the nature of the offender's disturbance. An examination by experts must be conducted beforehand in order to ascertain the treatment indicated and hence to make efficient use of the facilities.

395. Treatment can also be provided for convicted prisoners, either by arranging for experts to visit the prison or by directing that the prisoner be transferred - in the last stage of the sentence - to a treatment clinic. Analysis of various international surveys shows that the baseline for recidivism is high, ranging from 20 per cent to 40 per cent, even a long time after release. Monitoring and treatment therefore remain necessary in the long term. Monitoring can be performed by social organizations, the police and even the general public, as well as by the professional bodies such as the probation and after-care service. The use of medicines to check unwanted behaviour may be one element of the measures taken.

396. To implement the recommendations of the evaluation committee regarding the new legislation on sexual offences, the authorities are preparing a publicity campaign. This will consist of two parts, the provision of information to victims and the provision of information to officials.

397. Information for victims. The aim is to provide easily accessible information for victims on the sexual offences legislation, prescription periods, the criminal proceedings (brief outline), the activities of the police, criminal justice authorities, aid organizations, compensation and legal assistance. Brochures designed for each group are being prepared.

398. Information for officials. The aim is to provide easily accessible information about the subjects mentioned above. The target group is broad: the police, public prosecutions service, probation and after-care service, child-care and protection board, family guardianship institutions, the legal profession, normal professional aid organizations such as the regional institutes for out-patient mental health care, social work organizations, family doctors, confidential counsellors and non-professional aid organizations such as the victim support centres and telephone counselling services. To close the gap identified in the report between the criminal justice authorities and the aid organizations, a single handbook of matters concerning sexual offences is being prepared. The aim is to have the brochures and the handbook ready by the beginning of next year. The informational material will be widely distributed.

Sexual offences with schoolchildren

399. A bill on the subject of prevention and combating of sexual intimidation is being prepared in order to encourage the competent authorities to report cases of sexual offences involving schoolchildren. It is also necessary that codes of conduct be introduced in the schools to regulate the procedure to be followed in cases involving sex between teacher and pupil.

Police training

400. The duties of the police in relation to children and young people and sexual offences have for some time received considerable coverage in police training, both at the basic level and in the specialized courses. These courses are of a high calibre and take account of current developments and the latest ideas on how to deal with these issues. The specialist courses are now being overhauled to ensure that they are even more in keeping with the need for specialist expertise in the police forces.

Duties of the National Criminal Intelligence Service (CRI) in transmitting information

401. To enable the police to investigate sexual offences effectively, it is essential that information about such offences is available at central level. This is important not only in respect of offences in the Netherlands but also to cross-border sexual crime. The National Criminal Intelligence Service (CRI) has been responsible since 1987 for the coordination of information on child pornography and trafficking in women. The idea is that the criminal investigation departments of the regional forces should pass on information of relevance in other regions to the national criminal investigation department, which is part of the CRI. In practice, however, the regions do not always pass on this information or do not do so in a useable form. The police information from investigation and official police reports in particular is insufficient. As far as the information available about child pornography is

concerned, it should be noted that although the information on the nature of this pornography is adequate there is still insufficient information in the Netherlands about its volume.

402. Since July 1995 the CRI has been engaged in modifying and developing a system for the Netherlands which has been introduced in Canada, the United States and Austria under the name of VICLAS (Violent Crime Linkage Analysis System). This system can register the mode of operation of murders and sex offenders. The offences covered are rape (by strangers), sexual offences in relation to children (not within the family), sex-related murder and murders for psychotic motives. The system enables a link to be established between national and international crimes and possible offenders. Preparations for the introduction of this system are also being made in other countries such as the United Kingdom, Finland, Belgium, Malta, Sweden and (outside Europe) Australia and New Zealand. A working party consisting of CRI specialists and specialists from the regions has been given the job of ensuring that the new registration analysis is properly implemented. Measures are being prepared to strengthen the position of the CRI in respect of information.

4. Other forms of exploitation (article 36)

403. Reference is made to the other sections of this report concerning exploitation.

5. Sale, trafficking and abduction (article 35)

404. Under Dutch law, trafficking in adults and minors is punishable under article 250 ter of the Criminal Code. Reference should be made in this connection to the report on article 34, and to a number of provisions in the Criminal Code under which the acts referred to in article 35 of the Convention can be prosecuted:

(a) Article 274 provides that slave trading is a criminal offence;

(b) Article 278 provides that abduction is a criminal offence;

(c) Article 279 provides that the deliberate removal of a minor from the authority of the person having custody of the minor is a criminal offence;

(d) Article 280 provides that the deliberate concealment of a minor who has been removed or has removed itself from the authority of the person having custody of the minor is a criminal offence.

Finally, there is a general article - article 284 - concerning coercion: this provides that forcing a person to do, not to do or permit something by violence or threat of violence, etc. is a criminal offence. Under this legislation, the Netherlands can therefore act to deal with the abduction and sale of or trafficking in children.

D. Children belonging to a minority or an indigenous group (article 30)

Freedom of education

405. The provisions of article 30 are implemented in the Netherlands in a variety of ways. The statutory and constitutional basis of the Dutch educational system is the freedom of education, i.e. the freedom to establish schools, organize teaching and determine the content of education (there are some statutory requirements governing, for example, the minimum number of pupils, the qualifications of teaching staff, the subjects taught, and a few general guidelines governing the educational provision and the qualification structure). Religious and philosophical groups can therefore found their own schools. If they do so, the schools are deemed to be privately run and are funded by the Government according to the same criteria as publicly run schools, provided that certain statutory requirements are met. The majority of schools in the Netherlands (approximately 65 per cent) are run on the basis of certain religious or philosophical principles.

406. There is also a possibility for pupils and parents and others responsible for the upbringing of children to arrange for religious instruction to be provided at publicly run schools, although if such instruction is given it is not the responsibility of the school board. Such instruction may for example be Roman Catholic, but it may equally well be Islamic or another form of general instruction on a philosophical basis.

Minorities and indigenous children

407. The indigenous population of the Netherlands is fairly homogenous. The only indigenous linguistic minority in the Netherlands are the Frisians from the province of Friesland, which is situated in the north-west of the Netherlands. The Frisian language is taught in primary and special (secondary) schools in the province of Friesland. In addition, Frisian may also be used as the language of instruction in primary schools. The basic education at secondary schools in Friesland includes instruction in Frisian, unless the inspector has granted a full or partial exemption from this obligation at the request of the competent authority (section 11 (a), subsection 2, of the Secondary Education Act). The central Government provides support for education in Frisian.

408. The following are the main non-indigenous population groups in the Netherlands: Turks, Moroccans, Surinamese and Antilleans are the four largest groups. The others are Greeks, Italians, former Yugoslav citizens, Cape Verdeans, Portuguese, Spaniards, Tunisians and Moluccans. There are also refugees, caravan dwellers and gypsies/travellers. These groups are also the target groups of Dutch policy on minorities.

409. The age breakdown of the minority groups differs from that of the population as a whole. The number of young people is relatively large and the number of old people still small. This is very clear in the four largest municipalities in the Netherlands. In Amsterdam 55 per cent of primary school pupils now come from minority groups. The figures in the three other big cities are over 41 per cent in The Hague, almost 50 per cent in Rotterdam and over 35 per cent in Utrecht. The percentages in other large cities such as

Eindhoven, Groningen and Dordrecht are significantly lower (approximately 14-19 per cent). It is expected that by 2005 around 62 per cent of school leavers in Amsterdam will be from minority groups (1995 Minority Policy Annual Survey). In the case of the indigenous population, the under-25s now constitute around 30 per cent of the total population group. The under-15 age group includes around a third of the various non-indigenous population groups, whereas the equivalent figure for the indigenous group is less than 20 per cent. This over-representation is the highest among the Turks and Moroccans (35 per cent and 40 per cent respectively). This compares with only 18 per cent of indigenous young people in the same age group, as the table below shows.

Age of minority groups expressed as percentages of the total population group

%	Turks	Moroccans	Surinamese	Antilleans	South Europeans	Indigenous
0-15 yrs	34	34	30	29	22	18
15-30 yrs	35	30	30	33	32	22
30-45 yrs	18	17	26	25	23	24
45-65 yrs	13	14	1	11	20	22
65 +	1	1	3	2	3	14

Source: Minderheden in beeld; key figures 1995, E.P. Martens.

410. The Framework Convention for the Protection of National Minorities, which was recently signed by the Netherlands, includes a number of articles dealing with educational matters. The Netherlands will apply the Convention to: Frisians; persons legally resident in the Netherlands who belong to one of the following categories: Greeks, Italians, former Yugoslav citizens, Cape Verdeans, Moroccans, Portuguese, Spaniards, Tunisians and Turks; Surinamese and Antilleans/Arubans, refugees and asylum-seekers; caravan dwellers and gypsies/travellers.

411. Article 12 of the Convention aims to promote knowledge of the culture, history, language and religion of national minorities and of the majority through education and research. Article 13 covers the right of persons belonging to a national minority to establish their own education and training institutions. This right is, however, circumscribed by two conditions. First, the institutions are of a private nature and, as paragraph 2 makes clear, are not entitled to funding from the State. Although a State may naturally decide to subsidize such an institution, it is not obliged to do so under the Framework Convention. Second, this right may be exercised only in the context of the education system applicable in the country concerned. Private schools of a given religious denomination or movement may be funded by the public sector in the Netherlands if they fulfil the funding conditions

(which relate among other things to the organization of the teaching, the provision of a given combination of subjects and the suitability of the teaching staff).

412. Article 14 states that every person who belongs to a national minority is entitled to learn his or her own minority language. Paragraph 2 of this article relates to instruction in the minority language and receiving education in the minority language.

413. It is a principle of public education that every person's religious beliefs or other philosophical convictions should be recognized. It is precisely with a view to the position of minorities in Dutch society that the legislation on public education contains a provision that it should contribute to the development of the pupils by taking account of the philosophical and social values that exist in Dutch society and recognizing the significance of the variety of such values, and that such education should be accessible to all children without distinction by reference to religion or philosophy (section 29 of the Primary Education Act).

414. Intercultural education, which relates to the relations between ethnic groups, endeavours to establish good interethnic relations through education. In order to launch intercultural education successfully, the Ministry of Education, Culture and Science and the Ministry of Health, Welfare and Sport have established an intercultural education project group. This has concerned itself initially with devising a framework for education which prepares pupils for life in a multicultural society. As there are still many schools (white and black) which do not provide intercultural education, ways are being sought of establishing a good implementation strategy to ensure that the need to provide such education is taken for granted.

Minority language and culture teaching

415. Minority language and culture teaching was regulated by law in 1984. The majority of target groups of the national minorities policy and pupils from member States of the EU are entitled to 2.5 hours per week of mother-tongue teaching in school and may also receive a further 2.5 hours outside school hours. The main target groups of the minorities policy - the Surinamese and Antilleans - are not covered by the scheme. The statutory basis of mother-tongue teaching was included in the Primary Education Act in 1985. In addition to the instruction in the minority language and culture in school hours, the out-of-school instruction has continued to exist. The Chinese are particularly active in this respect. Independently of mother-tongue teaching, a large proportion of the Moroccan and Turkish pupils receive instruction on the Koran.

416. A large proportion of the instruction in the minority language and culture consists of language lessons. To a lesser extent the pupils also receive instruction in the history and geography of the country of origin. Although it was not the intention, it transpires that over half of the teachers also provide religious education during the minority language and culture teaching (Education Inspectorate, 1988).

417. There are separate budgets for funding the posts of minority language and culture teachers in primary and secondary schools.

418. Mother-tongue teaching will assume a new form on 1 August 1997. The relevant bill is currently being drafted and is based on the principles set out in the policy document on Education in Non-Indigenous Living Languages (OALT). Under the bill the municipalities will themselves have the power to disburse the OALT funds. Under the new system teachers will be required to have a Dutch teaching qualification and the OALT lessons will have to be given outside ordinary school hours. This means that the school day will be longer and that there will be a distinction between ordinary education forming part of the general curriculum and minority language and culture teaching outside school hours. It is feared that as a result mother-tongue teaching will lose its current status. In addition, instruction outside school hours creates organizational problems. The change in the law has therefore not been universally welcomed. However, the Chinese community, which has hitherto not been a target group of Dutch minorities policy and has therefore had to fund Chinese education itself, will now attempt to obtain funding under the OALT arrangements.

Adapting to education in the Dutch language

419. In primary schools pupils with a non-Dutch background can be given instruction in their own language until they have made the switch to education in Dutch. The same applies in secondary education (under section 12 (a) of the Secondary Education Act). Turkish and Arabic are the most important languages given the number of pupils from those countries. Turkish and Arabic have been examination subjects at the senior general secondary and preuniversity levels since the 1994/95 school year. This had previously been the case at the junior general secondary and prevocational levels.

Adapting to education in the Netherlands

420. Much research has been done into the educational performance of children from minority groups. These children have been found to lag way behind indigenous children from comparable social and economic backgrounds when it comes to reading, writing and arithmetic. Their weak performance at the end of their time at primary school follows weak performance in previous years. This results in underachievement at school and may cause them to drop out of school altogether. The result is that they have poor prospects in the labour market.

421. It has also been found that the linguistic and cognitive development of children from minority groups is relatively weak even before they attend primary school. This is due not only to the often low educational level of the parents but also to the fact that many immigrant parents have little idea of what Dutch schools expect of children and parents. There is therefore a pressing social need to strengthen the role and contribution of immigrant parents in the upbringing of their children and in preparing their children for school and supporting them during their school career. This is being done by means of the following programmes, which can be implemented by the parents at home.

(a) Preschool and initial schooling policy - 0-8-year-old immigrant children and their parents. This programme aims to equip immigrant parents (especially mothers) to raise their children in the Netherlands. The basic premise is not that the parents are incompetent; instead the programme seeks to provide assistance that is geared to the capacities of the parents. Young immigrant children are prepared for their school career in the Netherlands by means of a number of family-oriented programmes (Instapje, Opstapje, Opstap and Overstap) designed to stimulate their linguistic and cognitive development. Besides professionals, the Opstapje and Opstap programmes therefore use people from the target group who are employed (under supervision) to reach the target group;

(b) Schoolchildren. The aim is to keep schoolchildren from dropping out. This is achieved by involving the parents in the education of the children and promoting cooperation between the schools and social welfare institutions.

422. There are no statutory rules governing compulsory participation in activities in the preschool and after-school periods. Unlike the situation during the school period, participation is entirely voluntary. The Stap Door programme (7-8 years) will be implemented as an experiment at 20 schools in a number of municipalities in 1996.

423. Participation in the programmes in 1995:

	Number of children	Number of municipalities
Preschool period:		
Instapje (0-2 years)	100	4
Opstapje (2-4 years)	1 500	29
School period:		
Opstap (4-6 years)	5 200	65
Overstap (6-7 years)	12 700	49
Experiments in cooperation with the Ministry of Education, Culture and Science: 12 experimental locations		
Kaleidoscope (3-6 years)	300	
Pyramid (3-6 years)	1 000	

424. In practice, however, it has been discovered that some children cannot be reached by means of a family programme. This group may benefit from measures outside the home, particularly in playgroups and at primary school. Two programmes have therefore been set up for this purpose, and start in the playgroup and continue until forms 1 and 2 of the primary school.